FEDERAL REGISTER

VOLUME 12 NUMBER 87

Washington, Friday, May 2, 1947

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

CONSOLIDATIONS AND MERGERS

Effective upon publication in the FEDERAL REGISTER, § 20.6 is amended to read as follows:

§ 20.6 *Special regulations relating to consolidations and mergers.* (a) Before any reduction in force is made in connection with the transfer of any or all of the functions of one department to another continuing department, all veteran preference employees and all retention group A employees assigned to any such function shall be transferred to such continuing department, without change in tenure of employment.

(b) Where in the course of the liquidation of an agency, employees are transferred only for purposes of liquidation, the benefits of paragraphs (b), (c), (d) and (e) of § 20.9 of the regulations in this part shall apply only to those employees assigned to operating functions which continue in operation for more than 60 calendar days after the transfer. (Sec. 12, 58 Stat. 390; 5 U. S. C., Sup. 861)

[SEAL] UNITED STATES CIVIL SERVICE COMMISSION,
H. B. MITCHELL,
President,

[F. R. Doc. 47-4172; Filed, May 1, 1947; 9:02 a. m.]

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

ADMINISTRATOR OF SUGAR RATIONING ADMINISTRATION

AUTHORIZATION TO FIX COMMUNITY CEILING PRICES

CROSS REFERENCE: For authorization to the Administrator of the Sugar Rationing Administration to fix community ceiling prices, see Document No. 47-4253, Title 32, Chapter VII, Part 705, *infra.*

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs., Serial No. 387]

PART 228—FREE AND REDUCED-RATE TRANSPORTATION

FREE TRAVEL FOR POSTAL EMPLOYEES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 24th day of April 1947.

The Civil Aeronautics Board, acting pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 405 (m) thereof; and finding that notice and public procedure thereon are unnecessary for the reason that such regulation involves merely a minor amendment of existing authorizations which do not affect the general public; and finding that such regulation shall take effect in less than thirty days after publication thereof in order that the authorization provided therein will be immediately consistent with the desired change; hereby makes and promulgates the following regulation:

Amendment No. 9 of § 228.1 of the Economic Regulations (14 CFR 228).

Effective immediately, subparagraph (3) of paragraph (a) of § 228.1 of the Economic Regulations, as amended, is hereby amended to read as follows:

§ 228.1 *Free travel for postal employees*—(a) *Postal employees to be carried free.* * * *

(3) The Assistant Postmaster General who at the time is charged with the duty of the general management of post offices; the Assistant Postmaster General who at the time is assigned the supervision of Air Postal Transport, his Confidential Assistant, his Under Second Assistant, and his four Deputy Second Assistants; the Solicitor of the Post Office Department and the Assistant Solicitor, and any attorney in the Office of the Solicitor who at the time is assigned by the Solicitor to handle matters relating to the transportation of mail by aircraft.

(52 Stat. 984, 992, as amended; 49 U. S. C. 425a, 483b)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-4169; Filed, May 1, 1947; 8:47 a. m.]

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FEDERAL REGISTER

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TITLE 15—COMMERCE

Chapter I—Bureau of the Census, Department of Commerce

[Foreign Commerce Statistical Decision 59]

PART 30—FOREIGN TRADE STATISTICS

EXPORT DECLARATIONS NOT REQUIRED FOR CONTENTS OF DIPLOMATIC POUCHES

Notification to shippers, exporters and other interested parties.

Pursuant to section 4 of the Administrative Procedure Act, approved June 11, 1946 (Pub. Law 404, 79th Cong.), the Foreign Commerce Statistical Decision indicated below grants a beneficial exemption and, preliminary notice and hearing being deemed unnecessary, is therefore made effective immediately.

Section 30.47 is amended to read as follows:

§ 30.47 *Personal effects and contents of diplomatic pouches.* No export declarations are required for personal effects or baggage of travelers or for the contents of diplomatic pouches sent from the United States to foreign countries. (R. S. 161, sec. 4, 32 Stat. 826; 5 U. S. C. 22, 601)

J. C. CAPT,
Director

[F. R. Doc. 47-4174; Filed, May 1, 1947; 9:02 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 201—RULES OF PRACTICE

CHANGE-OVER TO DAYLIGHT-SAVING TIME

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly section 19 (a) thereof; the Securities Exchange Act of 1934, as amended, particularly section 23 (a) thereof; the Public Utility Holding Company Act of 1935, particularly section 20 (a) thereof; the Trust Indenture Act of 1939, particularly section 319 (a) thereof; the Investment Company Act of 1940, particularly section 38 (a) thereof; and the Investment Advisers Act of 1940, particularly section 211 (a) thereof, and

finding such action necessary and appropriate to carry out the provisions of such acts, hereby takes the following action:

Section 201.1 [Rule I] of the rules of practice of the Commission is amended to read as follows:

§ 201.1 *Business Hours.* The principal office of the Commission at Philadelphia, Pennsylvania, is open each day, except Saturdays, Sundays and holidays, from 9:00 a. m. to 5:30 p. m. eastern standard time or eastern daylight-saving time, whichever is currently in effect in Philadelphia.

The foregoing being rules of agency organization, procedure or practice, the Commission deems that the notice and procedures specified in sections 4 (a) and (b) of the Administrative Procedure Act do not apply to the foregoing action. In view of the fact that daylight-saving time is scheduled to go into effect in Philadelphia on April 27, 1947, the foregoing action shall become effective April 28, 1947, the first business day thereafter.

(Secs. 19 (a) 23 (a) 48 Stat. 85, 901, 20 (a) 49 Stat. 833, 319 (a) 53 Stat. 1173, 38 (a) 211 (a) 54 Stat. 841, 855; 15 U. S. C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 25, 1947.

[F. R. Doc. 47-4162; Filed, May 1, 1947; 8:46 a. m.]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

CHANGE-OVER TO DAYLIGHT-SAVING TIME

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly section 19 (a) thereof, and finding such action necessary and appropriate to carry out the provisions of the act, hereby takes the following action:

1. Section 230.110 [Rule 110] of the general rules and regulations under the Securities Act of 1933 is amended to read as follows:

§ 230.110 *Business Hours of the Commission.* The principal office of the Commission at Philadelphia, Pa., is open each day, except Saturdays, Sundays and holidays, from 9:00 a. m. to 5:30 p. m. eastern standard time or eastern daylight-saving time, whichever is currently in effect in Philadelphia.

2. Section 230.930 [Rule 930] of the general rules and regulations under the Securities Act of 1933 is amended to read as follows:

§ 230.930 *Calculation of time.* Saturdays, Sundays and holidays shall be counted in computing the effective date of registration statements under section 8 (a) of the act. In the case of statements which become effective on the twentieth day after filing, the twentieth day shall be deemed to begin at the expiration of nineteen periods of twenty-four hours each from 5:30 p. m. eastern standard time or eastern daylight-saving time, whichever is in effect at the principal office of the Commission on the date of filing.

The foregoing being rules of agency organization, procedure or practice, the Commission deems that the notice and procedures specified in sections 4 (a) and (b) of the Administrative Procedure Act do not apply to the foregoing action. In view of the fact that daylight-saving time is scheduled to go into effect in Philadelphia on April 27, 1947, the foregoing action shall become effective April 28, 1947, the first business day thereafter.

(Sec. 19 (a), 48 Stat. 85, 15 U. S. C. 77s)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 25, 1947.

[F. R. Doc. 47-4163; Filed, May 1, 1947; 8:46 a. m.]

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING ACT OF 1935

CHANGE-OVER TO DAYLIGHT-SAVING TIME

Paragraph (c) of § 250.23 [Rule U-23] of the general rules and regulations under the Public Utility Holding Company Act of 1935 is amended to read as follows:

§ 250.23 *Procedure applicable to certain applications and declarations.* * * *

(c) *Effective date.* A declaration or application will become effective or be granted respectively by order issuing as of course at 5:30 p. m., eastern standard time or eastern daylight-saving time, whichever is in effect at the principal office of the Commission, on the thirtieth day after the filing thereof or the fifteenth day after the filing of the last amendment thereto, whichever is later, or if such day is a Saturday, Sunday or legal holiday, on the next business day, unless prior thereto the Commission shall have ordered a hearing thereon. The Commission may at the request of the applicant or declarant advance, and the applicant or declarant may by written or telegraphic notice to the Commission postpone, such date.

The foregoing being rules of agency organization, procedure or practice, the Commission deems that the notice and procedures specified in sections 4 (a) and (b) of the Administrative Procedure Act do not apply to the foregoing action. In view of the fact that daylight-saving time is scheduled to go into effect in Philadelphia on April 27, 1947, the foregoing action shall become effective April 28, 1947, the first business day thereafter.

(Sec. 20 (a) 49 Stat. 833; 15 U. S. C. 79t)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 25, 1947.

[F. R. Doc. 47-4164; Filed, May 1, 1947; 8:46 a. m.]

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

CHANGE-OVER TO DAYLIGHT-SAVING TIME

The Securities and Exchange Commission, acting pursuant to an authority conferred upon it by the Trust Indenture Act of 1939, particularly section 319 (a) thereof, and finding such action necessary and appropriate to carry out the provisions of the act, hereby takes the following action:

1. Section 260.0-5 [Rule T-0-5] of the general rules and regulations under the Trust Indenture Act of 1939 is amended to read as follows:

§ 260.0-5 *Business hours of the Commission.* The principal office of the Commission at Philadelphia, Pennsylvania, is open each day, except Saturdays, Sundays and holidays, from 9:00 a. m. to 5:30 p. m. eastern standard time or eastern daylight-saving time, whichever is currently in effect in Philadelphia.

2. Section 260.7a-4 [Rule T-7A-4] of the general rules and regulations under the Trust Indenture Act of 1939 is amended to read as follows:

§ 260.7a-4 *Calculation of time.* Saturdays, Sundays and holidays shall be counted in computing the effective date of applications for qualification filed under section 307 (a) of the act. The twentieth day shall be deemed to begin at the expiration of nineteen periods of twenty-four hours each from 5:30 p. m., eastern standard time or eastern daylight-saving time, whichever is in effect at the principal office of the Commission on the date of filing.

The foregoing being rules of agency organization, procedure or practice, the Commission deems that the notice and procedures specified in sections 4 (a) and (b) of the Administrative Procedure Act do not apply to the foregoing action. In view of the fact that daylight-saving time is scheduled to go into effect in Philadelphia on April 27, 1947, the foregoing action shall become effective April 28, 1947, the first business day thereafter.

(Sec. 319a, 53 Stat. 1173, 15 U. S. C. 77sss)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

APRIL 25, 1947.

[F. R. Doc. 47-4165; Filed, May 1, 1947; 8:46 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Suspension Order S-22]

PART 807—SUSPENSION ORDERS

RANCHO ROYALE HOTEL CO. AND SAMUEL H. LEVIN

Rancho Royale Hotel Company, a California corporation, and Samuel H. Levin, its President, without authorization of the Civilian Production Administration or the Office of the Housing Expediter, after March 26, 1946 began and thereafter carried on construction of a

resort hotel project consisting of twelve or more structures at a point approximately three miles southeast of Palm Springs, California, on Highway 111, the Indio-Palm Springs Road, the estimated cost of each structure was in excess of $1,000; totaling approximately $225,000. The beginning and carrying on of construction as aforesaid constituted a violation of Veterans' Housing Program Order 1. This violation has diverted critical materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.22 *Suspension Order No. S–22.* (a) Neither the Rancho Royale Hotel Company, a corporation, nor Samuel H. Levin, its or his successors or assigns, nor any other person shall do any further construction on the premises located approximately three miles southeast of Palm Springs, California, on Highway 111, the Indio-Palm Springs Road, including putting up, completing or altering any structure located thereon unless hereafter specifically authorized in writing by the Office of the Housing Expediter.

(b) For a period of four months from the effective date of this order, no authorization shall be granted to the Rancho Royale Hotel Company, its successors and assigns, or Samuel H. Levin, by the Office of the Housing Expediter for any construction for which authorization is required.

(c) Rancho Royale Hotel Company and Samuel H. Levin shall refer to this order in any application or appeal which it or he may file with the Office of the Housing Expediter for authorization to carry on construction.

(d) Nothing contained in this order shall be deemed to relieve the Rancho Royale Hotel Company and Samuel H. Levin from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 1st day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V SARCONE,
Authorizing Officer.

[F. R. Doc. 47–4250; Filed, May 1, 1947; 11:42 a. m.]

[Suspension Order S–23]

PART 807—SUSPENSION ORDERS

ARLINGTON LUMBER & SUPPLY CO.

Harry Kodish and Joseph Kodish, partners, d/b/a Arlington Lumber and Supply Company, at 384 South Arlington Street, Akron, Ohio, on or about October 16, 1946, without authorization of the Civilian Production Administration or the Office of the Housing Expediter, began and thereafter carried on construction until November 15, 1946 of the foundation of a two-story building located at 384 South Arlington Street, Akron, Ohio, to be used for warehouse and storage purposes, at an estimated cost of $12,000. This was a grossly negligent violation of Veterans' Housing Program Order 1 and has diverted critical materials to uses not authorized by the Office of the Housing Expediter. In view of the foregoing, it is hereby ordered that:

§ 807.23 *Suspension Order No. S–23.* (a) Neither Harry Kodish nor Joseph Kodish, individually or d/b/a Arlington Lumber and Supply Company, their successors and assigns, nor any other person shall do any further construction on the structure at 384 Arlington Street, Akron, Ohio, including putting up, completing or altering the structure, unless hereafter authorized in writing by the Office of the Housing Expediter.

(b) Harry Kodish and Joseph Kodish, d/b/a Arlington Lumber and Supply Company, shall refer to this order in any application or appeal which they may file with the Office of the Housing Expediter for priorities assistance or authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Harry Kodish and Joseph Kodish, individually or d/b/a Arlington Lumber and Supply Company, their successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Office of the Housing Expediter, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 29th day of April 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V SARCONE,
Authorizing Officer

[F. R. Doc. 47–4209; Filed, Apr. 30, 1947; 1:24 p. m.]

[Veterans' Housing Program Order 4, as Amended May 1, 1947]

PART 809—VETERANS' HOUSING PROGRAM ORDERS

PRODUCTION RESTRICTION ON CAST IRON SOIL PIPE AND FITTINGS

There is a shortage in the supply of certain sizes of cast iron soil pipe and fittings needed for the Veterans' Emergency Housing Program and other essential construction. This order is issued in order to restrict the production of other sizes of cast iron soil pipe and fittings so that production facilities may be used to meet the needs of the Veterans' Emergency Housing Program and other essential construction. This order was formerly issued by the Civilian Production Administration. As of April 1, 1947, it was transferred to the Housing Expediter and has been adopted by him through Housing Expediter Priorities Order 5.

§ 809.8 *Veterans' Housing Program Order 4*—(a) *Definition.* For the purposes of this order, "producer" means any person who makes cast iron soil pipe and fittings for sale. A producer who operates several plants may consider himself as a single producer for all those plants or as a separate producer for each plant, whichever he chooses.

(b) *Restriction on production of large sizes.* Beginning May 1, 1947, the tonnage of cast iron soil pipe and fittings which a producer makes during any month in sizes of 5 inches or larger must not exceed 10% of the total tonnage of cast iron soil pipe and fittings he made in all sizes during the preceding month.

(c) *Communications and appeals.* Communications regarding this order, and any appeals from its provisions made pursuant to the Housing Expediter Appeals Order should be addressed to the Office of the Housing Expediter, Washington 25, D. C., Ref: VHP–4.

(d) *Violations.* A person who willfully violates any provision of this order or who, in connection with this order, willfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction, will be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(60 Stat. 207, 50 U. S. C. App. Supp. 1821)

Issued and effective this 1st day of May 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

[F. R. Doc. 47–4251; Filed, May 1, 1947; 11:42 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Sugar Rationing Administration, Department of Agriculture

[Sugar Rationing Administration Delegation Order 1]

PART 705—ADMINISTRATION

DELEGATION OF AUTHORITY TO REGIONAL SUGAR EXECUTIVES AND DEPUTY REGIONAL SUGAR EXECUTIVES TO ISSUE ORDERS FIXING COMMUNITY DOLLAR-AND-CENTS CEILING PRICES

Pursuant to the authority conferred upon the Administrator of the Sugar Rationing Administration by the Secretary of Agriculture in General Orders Nos. 1 and 2, and by the Sugar Control Extension Act of 1947, it is ordered:

§ 705.201 *Order delegating authority to issue orders fixing community dollar-and-cents ceiling prices.* (a) The Regional Sugar Executives of Regions 2, 3, 5, 6 and 8 and the Deputy Regional Sugar Executive of Region 4 are hereby authorized to fix, by order, community dollar-and-cents ceiling prices, in any area or locality within their jurisdictions, for sales at retail by all sellers (including "retail route sellers" and "health food stores") of any food item subject to price control under the jurisdiction of the Secretary of Agriculture.

(b) Orders issued under this order shall have the same force and effect as if issued by the Administrator.

o

(c) Orders issued under this order shall be filed with the Division of the Federal Register.

(d) Unless the context otherwise requires, the definitions set forth in Maximum Price Regulations Nos. 422 and 423, section 302 of the Emergency Price Control Act of 1942, as amended, the Sugar Control Extension Act of 1947, and in the General Maximum Price Regulation, as amended, shall apply to all terms used herein.

This Sugar Rationing Administration Delegation Order No. 1 shall become effective April 29, 1947.

(Pub. Law 30, 80th Cong., 1st session; General Order No. 1 issued by the Secretary of Agriculture, March 31, 1947, 12 F R. 2807; General Order No. 2 issued by the Secretary of Agriculture April 29, 1947)

Issued this 29th day of April 1947.

IRVIN L. RICE,
Acting Administrator
Sugar Rationing Administration.

[F. R. Doc. 47-4252; Filed, May 1, 1947; 11:53 a. m.]

[General Order 2]

PART 705—ADMINISTRATION

AUTHORIZATION TO FIX COMMUNITY CEILING PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register and pursuant to the "Emergency Price Control Act of 1942" as amended, and the "Sugar Control Extension Act of 1947" it is hereby ordered:

§ 705.102 *Authorization to fix community ceiling prices.* (a) The Administrator of the Sugar Rationing Administration, and any Regional Sugar Executive or Deputy Regional Sugar Executive who may be authorized by the Administrator, may, by order, fix community dollar-and-cents ceiling prices, in any area or locality within their jurisdictions, for sales at retail by all sellers (including "retail route sellers" and "health food stores") of any food item subject to price control under the jurisdiction of the Secretary of Agriculture. If an area for which it is deemed appropriate to fix maximum prices lies within the jurisdiction of more than one regional office of the Sugar Rationing Administration, the Administrator may authorize the Regional Sugar Executive or Deputy Regional Sugar Executive for the region in which the majority of the sellers to be covered by the order is located to issue an order establishing or adjusting maximum prices for all sellers in the marketing area.

(b) Orders issued under this general order shall have the same force and effect as if issued by the Secretary of Agriculture.

(c) Orders issued under this general order shall be filed with the Division of the Federal Register.

(d) Unless the context otherwise requires, the definitions set forth in Maximum Price Regulations Nos. 422 and 423, section 302 of the Emergency Price Control Act of 1942, as amended, the Sugar Control Extension Act of 1947, and in the General Maximum Price Regulation, as amended, shall apply to all terms used herein.

This General Order No. 2 shall become effective April 29, 1947.

(56 Stat. 23, 765; 57 Stat. 566; 58 Stat. 632; 59 Stat. 306; 60 Stat. 664; Pub. Law 30, 80th Cong., 1st session; E.O. 9250, 7 F. R. 7871, E.O. 9328, 8 F. R. 4651, E.O. 9599, 10 F. R. 10155; E.O. 9651, 10 F. R. 13487; E.O. 9697, 11 F. R. 1691)

Issued this 29th day of April 1947.

CLINTON P. ANDERSON,
Secretary of Agriculture.

Opinion Accompanying General Order 2

General Order No. 2 delegates to the Administrator of the Sugar Rationing Administration, and any Regional Sugar Executive or Deputy Regional Sugar Executive who may be authorized by the Administrator, the authority to issue and put into effect orders establishing maximum dollar-and-cents prices for sales at retail of any food item subject to price control under the jurisdiction of the Secretary of Agriculture.

This order merely delegates to the Administrator, and Regional Sugar Executives or Deputy Regional Sugar Executives authorized by the Administrator, the same authority previously delegated to Regional Administrators and District Directors of the Office of Price Administration by Revised General Order 51, issued by the Price Administrator. This action is necessary, for the sake of clarity, as a result of the Sugar Control Extension Act of 1947. This act transferred to the Secretary of Agriculture powers, functions and duties of the President and the Price Administrator under the Emergency Price Control Act of 1942, and the Stabilization Act of 1942, both as amended and extended, insofar as they relate to sugar and related products.

This order is substantially the same as Revised General Order 51, except that certain unnecessary provisions have been deleted.

[F. R. Doc. 47-4253; Filed, May 1, 1947; 11:53 a. m.]

Chapter IX—Office of Temporary Controls, Civilian Production Administration

AUTHORITY: Regulations in this chapter unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, 59 Stat. 658, Pub. Laws 383 and 475, 79th Cong.; E. O. 9024, 7 F. R. 329; E. O. 9040, 7 F. R. 527; E. O. 9125, 7 F. R. 2719; E. O. 9599, 10 F. R. 10155; E. O. 9638, 10 F. R. 12591; C. P. A. Reg. 1, Nov. 5, 1945, 10 F. R. 13714; Housing Expediter's Priorities Order 1, Aug. 27, 1946, 11 F. R. 9507; E. O. 9809, Dec. 12, 1946, 11 F. R. 14281; OTC Reg. 1, 11 F. R. 14311.

PART 1001—TIN

[Conservation Order M-43, as Amended May 1, 1947]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of tin for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

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§ 1001.1 *Conservation Order M-43—*(a) *What this order does.* This order prohibits deliveries of pig tin except under certain conditions and provides for allocation of pig tin by the Civilian Production Administration. It also restricts the use of pig tin, secondary tin, certain tin-bearing products and tinplate in manufacture. The order also restricts sales and deliveries of jewelry and certain other articles containing tin. Although paragraph (h) of the order which contained special restrictions on the use of tin in jewelry and certain other articles has now been deleted, all other provisions of the order still apply to these articles, including the restrictions of paragraphs (e) and (g) on use of tin, and the special sales restrictions of para-

graph (k) The order also limits inventories of tin. Certain other orders of the Civilian Production Administration also restrict the manufacture and use of articles containing tin. The provisions of these other orders must also be followed.

In addition to the above restrictions, this order now contains restrictions on the import of tin similar to the restrictions formerly in Order M-63.

Deliveries of Pig Tin

(b) *Restriction on deliveries of pig tin.* No person shall deliver or accept delivery of pig tin without a specific allocation in writing by the Civilian Production Administration or the War Production Board, except under the conditions set forth in paragraphs (b) (1) and (b) (2) below. "Pig tin" means metal containing 98% or more by weight of the element tin, in shapes current in the trade (including anodes, powder, small bars and ingots) produced from ores, residues or scrap. It also includes tin pipe or tubing.

(1) Pig tin may be delivered without specific allocation to the Office of Metals Reserve, Reconstruction Finance Corporation, or to any other corporation organized under section 5 (d) of the Reconstruction Finance Corporation Act as amended or to any agent of such a corporation.

(2) Pig tin may be delivered without specific allocation by a distributor in lots not larger than 2,000 pounds each to any person who does not receive from all sources more than 4,000 pounds of pig tin in the calendar month the distributor makes the delivery and who gives to the distributor at the time he places his purchase order, a certificate in substantially the form below, signed manually or as provided in Allocations Regulation 1 by an official duly authorized for that purpose:

> I certify, subject to the penalties of Section 35 (A) of the United States Criminal Code, that I will use this pig tin for ---------- (specify end use) in accordance with Order M-43 or will resell it only in accordance with that order. I will not receive more than 4,000 pounds of pig tin from all sources in ---------- (specify month of delivery) including the amount covered by this order.
>
> ----------
> (Name of purchaser)
> By ----------
> (Duly authorized official)

See paragraph (n) below regarding certificate for export.

(c) *Allocations of pig tin.* The Civilian Production Administration will allocate the supply of pig tin, including all pig tin released by the Reconstruction Finance Corporation, and will issue specific directions as to the source, destination and amount of pig tin to be delivered or acquired. Applications for allocations of pig tin should be made to the Civilian Production Administration not later than the 20th day of the month before the month in which delivery is requested, and should be made on Form CPA-412. Except in unusual circumstances, the Civilian Production Administration will not allocate to a person for a calendar quarter an amount greater than 110% of the quantity he legally melted and put into process during the second quarter, 1946, plus the quantity which he sold during that quarter. Applications from persons who did not use pig tin during the base period (including persons who were not in business at that time) will be considered on an equitable basis. Tin requested for resale must be disposed of only by resale. The Civilian Production Administration may specifically direct the purposes and end products for which a person may convert, process or fabricate pig tin allocated to him.

(d) *Reports on use, disposition and inventories of pig tin.* (1) On or before the 10th of each calendar month, each distributor of pig tin must report to the Civilian Production Administration on Form CPA-412 or by letter in triplicate all of his transactions in pig tin during the previous month.

(2) Any person who, on the first day of a calendar month, has in his possession or under his control 2,000 pounds or more of pig tin must report to the Civilian Production Administration on Form CPA-412 by the 20th of that month.

(3) Any person who uses 1,000 pounds or more of pig tin in any calendar month must report to the Civilian Production Administration on Form CPA-412 on or before the 20th of the following month.

(4) The reporting requirements of this order have been approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

Use of Tin in Manufacture

(e) *General restrictions on the use of pig tin, secondary tin, tin plate, terne plate, solder babbitt and other tin-bearing materials.* No person may use any pig tin, secondary tin, tin plate, terne plate, solder, babbitt, copper base alloys or other alloys containing 1.5% or more tin, or any other materials containing 1.5% or more tin, or any britannia metal pewter metal or other similar tin-bearing alloys to make or treat any item or product, or in any process, not set forth in one of the schedules attached to this order. In making or treating these items, or performing these processes, pig tin may not be used where the schedule permits secondary tin only, and the tin content of an item may not exceed the amount indicated in the schedule.

"Pig tin" means metal containing 98% or more by weight of the element tin, in shapes current in the trade (including anodes, powder, small bars, and ingots) produced from ores, residues or scrap. It also includes tin pipe or tubing. "Secondary tin" means any alloy which contains less than 98% but not less than 1.5% by weight of the element tin.

(f) [Deleted February 6, 1947.]

(g) *Special restrictions on the use of metals to which pig tin has been added.* No person may use metal to which pig tin has been added to produce any product or perform any process for which pig tin is not permitted by one of the schedules attached to this order.

(h) [Deleted February 6, 1947.]

Implements of War

(i) *Exemptions for implements of war* (1) The restrictions of paragraphs (e) and (g) and of the schedules do not apply to the manufacture of "Implements of war" produced for the Army or Navy of the United States, or the U. S. Maritime Commission where the use of tin contrary to these restrictions is required either by the latest applicable specifications, on drawings, or by letter or contract of the government service or agency for which the "Implements of war" are being produced.

(2) "Implements of war" means combat end-products, complete for tactical operations (including, but not limited to aircraft, ammunition, armaments, weapons, ships, tanks, military vehicles and radio and radar equipment), and any parts, assemblies or materials to be incorporated in any of these items. This term does not include facilities or equipment used to manufacture the items described above.

Use and Sale of Articles Containing Tin

(j) *General restrictions on the use and sale of tin-bearing products.* (1) In some cases the schedules attached to this order permit the use of pig tin or secondary tin in making a product only if the product is to be used for a particular purpose. No person shall use any of these products for any purpose other than the purpose permitted by the schedule.

(2) No person giving a certificate under this order or its schedules may receive, use or dispose of the materials obtained with the certificate contrary to its terms. The standard certificate described in Priorities Regulation 7 may not be used in place of any of the certificates described in this order or its schedules.

(3) Notwithstanding the authorization by the War Production Board or the Civilian Production Administration of a sale or delivery of tin, no person shall sell or deliver any tin or tin-bearing material or product thereof in the form of raw materials, semi-processed materials, finished parts or subassemblies to any person if he knows or has reason to believe such material or any product thereof is to be used in violation of the terms of this order. A supplier may rely upon the written statement of the customer seeking delivery of any such material, as to the purposes for which it will be used, unless the supplier knows or has reason to believe the statement is false, and such a statement shall constitute, on the part of the person making it, a representation to the Civilian Production Administration within the meaning of section 35 (A) of the United States Criminal Code, 18 U. S. C. sec. 80.

(k) *Special restrictions on purchases and sales of certain articles containing tin.* No person, for the purpose of resale, shall receive from a manufacturer any new article of the kinds listed below, if the article contains tin in any form except tin plate waste waste, or terne plate waste waste, tin plate scrap or terne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II) or brass or bronze (to the extent permitted by Schedule IV) No person shall sell or deliver any new article of the kinds listed below, if the article contains tin in any form except tin plate waste waste, or terne plate waste waste, tin plate scrap or terne plate scrap, solder used for joining purposes

(to the extent permitted by Schedule II), or brass or bronze (to the extent permitted by Schedule IV) unless he has an authorization in writing from the Civilian Production Administration or the War Production Board for the sale or delivery. A person who wishes to get such an authorization should apply to the Civilian Production Administration by letter in triplicate, giving a report of his inventory of all of the items listed below containing tin in any form except tin plate waste waste, or terne plate waste waste, tin plate scrap or terne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II) or brass or bronze (to the extent permitted by Schedule IV) showing the quantity of each item in his possession on March 1, 1945, the names and addresses of the sellers from whom he bought the items, and the dates the purchases were made. Authorizations will ordinarily be given, except where it appears that the purchases were in violation of Order M-43. "New article" means one which has not been used by an ultimate consumer. A purchaser for resale of articles of the kinds listed below may rely on a written certification by his supplier that they contain no tin in any form except tin plate waste waste or terne plate waste waste, tin plate scrap or terne plate scrap, solder used for joining purposes (to the extent permitted by Schedule II), or brass or bronze (to the extent permitted by Schedule IV) unless he knows or has reason to believe the statement is false.

1. Advertising specialties.
2. Art objects.
3. Britannia metal, pewter metal or other similar tin-bearing alloy.
4. Buckles.
5. Buttons.
6. Emblems and insignia.
7. Jewelry.
8. Novelties, souvenirs and trophies.
9. Ornaments and ornamental fittings.
10. Toys and games.

Inventories

(1) *Limitation on inventories.* No person who uses any material listed in Column 1 below shall accept delivery of any of that material if his inventory of it is, or will by virtue of such acceptance become, more than the amount which he will be required by his current practices to put into use, during the next succeeding period of the length specified in Column 2 below, in order to carry out his current operations for permitted uses:

NOTE: Table added May 1, 1947.

Material (1)	Maximum Days' Supply (2)
a. Pig tin	90 days (for manufacture of tin plate) 45 days (for any other permitted use)
b. Solder (as defined in Schedule II to M-43)	30 days
c. Babbitt (as defined in Schedule III to M-43)	30 days
d. Copper base alloys (containing 1.5% or more of tin)	45 days
e. Other alloys containing 1.5% or more tin (except solder, babbitt, and copper base alloys)	30 days

Imports

(m) *Import restrictions.* The provisions of this paragraph (m) replace those in General Imports Order M-63, insofar as that order has applied to materials subject to this paragraph. However, authorizations for the importation of such materials issued under Order M-63 shall continue to have the same force and effect as if issued under this Order M-43.

(1) *Definitions.* For the purposes of this paragraph (m)

(i) "Tin subject to import control under this order" means any of the following:

Tin alloys, chief value tin n. s. p. f. (including alloy scrap)	6551.800
Tin bars, blocks, pigs, grain or granulated	6551.300

NOTE: The numbers listed in the second column are commodity numbers taken from Schedule A, Statistical Classification of Imports of the Department of Commerce (issue of January 1, 1943).

(ii) "Owner" of any material means any person who has any property interest in such material except a person whose interest is held solely as security for the payment of money.

(iii) "Consignee" means the person to whom a material is consigned at the time of importation.

(iv) "Import" means to transport in any manner into the continental United States from any foreign country or from any territory or possession of the United States. It includes shipments into a free port, free zone, or bonded custody of the United States Bureau of Customs (bonded warehouse) in the continental United States and shipments into the continental United States for processing or manufacture in bond for exportation.

It does not include shipments in transit in bond through the continental United States without processing or manufacture, to Canada, Mexico or any other foreign country, or shipments through a free port or free zones to a foreign country without processing or manufacture. However, if any material covered by the preceding sentence is, because of a change in plans, to be sold or used in the continental U. S. or subjected to processing or manufacture in the continental United States, it becomes an "import" for the purposes of this paragraph (m) and requires the same authorization as an "import" before it may be moved from a free port, free zone, or bonded custody.

(2) *Restrictions on imports.*—(i) *General restriction.* No person, except as authorized in writing by the Civilian Production Administration, shall purchase for import, import, offer to purchase for import, receive, or offer to receive on consignment for import, or make any contract or other arrangement for the importing of, any tin subject to import control under this order. The foregoing restrictions shall apply to the importation of any tin subject to import control under this order regardless of the existence of any contract or other arrangement for the importation of such material.

(ii) *Authorization by Civilian Production Administration.* Any person desiring such authorization, whether owner, purchaser, seller, or consignee of the material to be imported, or agent of any of them, shall make application therefore in duplicate on Form CPA-1041 addressed to the Civilian Production Administration Ref.. M-43, Washington 25, D. C. Unless otherwise expressly permitted, such authorization shall apply only to the particular material and shipment mentioned therein and to the persons and their agents concerned with such shipment; it shall not be assignable or transferable either in whole or in part.

(iii) *Restrictions on financing of imports.* No bank or other person shall participate, by financing or otherwise, in any arrangement which such bank or person knows or has reason to know involves the importation of any tin subject to import control under this order, unless such bank or person either has received a copy of the authorization issued by the Civilian Production Administration under the provisions of paragraph (m) (2) (ii) above or is satisfied from known facts that the proposed transaction comes within the exceptions set forth in paragraph (m) (2) (iv) below.

(iv) *Exceptions.* Unless otherwise directed by the Civilian Production Administration, the restrictions set forth in this paragraph (m) (2) shall not apply:

(a) To the Reconstruction Finance Corporation, U. S. Commercial Company, or any other United States governmental department, agency, or corporation, or any agent acting for any such department, agency or corporation; or

(b) To any material of which any United States governmental department, agency, or corporation is the owner at the time of importation, or to any material which the owner at the time of importation had purchased or otherwise acquired from any United States governmental department, agency, or corporation; or

(c) To any material consigned or imported as a sample where the value of each consignment or shipment is less than $25.00.

(3) *Reports*—(i) *Reports on customs entry.* No tin subject to import control under this order, including materials imported by or for the account of the Reconstruction Finance Corporation, U. S. Commercial Company, or any other United States governmental department, agency or corporations, shall be entered through the United States Bureau of Customs for any purpose, unless the person making the entry shall file with the entry Form CPA-1040 in duplicate. The filing of such form a second time shall not be required upon any subsequent entry of such material through the United States Bureau of Customs for any purpose; nor shall the filing of such form a second time be required upon the withdrawal of any material from bonded custody of the United States Bureau of Customs, regardless of the date when such material was first transported into the continental United States. Both copies of such form shall be transmitted by the Collector of Customs to the Civilian Production Administration, Ref.. M-43, Washington 25, D. C.

(ii) *Other reports.* All persons having any interest in, or taking any action with respect to any tin subject to import control under this order, whether as owner, agent, consignee, or otherwise, shall file such other reports as may be required from time to time by the Civilian Production Administration.

Exports

(n) *Export certificates.* Some provisions of this order and its Schedules permit sales or deliveries of certain items only upon certificates from the purchasers. In cases where the purchaser is going to export such an item outside the United States, its territories or possessions, or Canada, he should state as the end use in the certificate the words "for export" and give the number of the export license.

Miscellaneous

(o) *Appeals and communications.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate referring to the particular provision appealed from and stating fully the grounds of the appeal. Priorities Regulation 16 gives additional instructions about the filing of appeals. Appeals, reports and all communications concerning this order should be addressed to the Civilian Production Administration, Tin, Lead, and Zinc Branch, Washington 25, D. C., Reference: M-43.

(p) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

Issued this 1st day of May 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

Schedules of Permitted Uses

Under Order M-43 pig tin, secondary tin, tin plate, terne plate, solder, babbitt, copper base alloys and other materials containing tin may be used only in the production of the items and for the purposes set forth in the following schedules, subject to the limitations, restrictions and conditions specified in these schedules with respect to the various items and purposes.

SCHEDULE I—MISCELLANEOUS

(1) *Detonators and blasting caps.* Pig or secondary tin may be used to make detonators and blasting caps (including electric blasting caps) including all their necessary parts and accessories.

(2) *Collapsible tubes.* (a) Pig or secondary tin may be used to make collapsible tubes for the following purposes, if the tin content by weight of the tube is no greater than the maximum specified below:

Product	Maximum permitted tin content (percent of tin by weight)
Ointments and other preparations for opthalmic use, sulfa drugs in ointment or jelly form, diagnostic extracts (allergens), and morphine or hypodermic injection	Unlimited
Preparations intended for introduction into the body orifices for local application, and medicinal and pharmaceutical ointments (excluding unmedicated petroleum jelly and lanolin)	Unlimited
Dental cleansing preparations	3%

Secondary tin may be used to make lead collapsible tubes for any purpose if the tin content of the tube is not greater than 0.5% by weight.

(b) [Deleted July 5, 1946.]

(c) No person may purchase, accept delivery of, or use collapsible tubes containing tin for packing products except those permitted above.

(3) *Foil.* (a) Pig or secondary tin may be used to make foil for the following purposes if the tin content by weight of the foil is no greater than the maximum specified below:

Purpose	Maximum permitted tin content (percent of tin by weight)
(i) Electrotypers foil	30%
(ii) Dental foil	Unlimited
(iii) Soft babbitt for the preparation of industrial metallic packing	1½%
(iv) Condenser foil of dimensions 0.00035 inch by ¾ inch or less	50%
(v) Condenser foil for all other condensers	5%
(vi) Foil for aircraft magnetos	50%
(vii) Cap liner foil for packing medicinal, pharmaceutical, and biological preparations containing chloroform or other highly volatile chemicals for which other types of liners cannot be used	Unlimited

(b) [Deleted July 5, 1946.]

(4) *Dairy equipment.* Pig or secondary tin may be used to coat fluid milk shipping containers or to manufacture or retin any other dairy equipment.

(5) *Equipment for preparing and handling food.* (a) Pig or secondary tin may be used to coat or to retin any parts of kitchen utensils, galley and mess equipment and other equipment used in processing and handling of food if the parts are designed to come into actual contact with food or to plate cutlery and flatware.

(6) *Wire coating.* Tin or tin alloys may be prepared and used for coating wire as follows:

(a) *For copper base wire.* There is no limitation upon the tin content of the coating alloy when the copper base wire to be coated is of a size of 0.0320" nominal diameter or finer. If the wire to be coated is of a size larger than 0.0320" nominal diameter, the tin content of the coating alloy is limited to 12% tin by weight.

(b) *For steel wire.* (i) To be used as armature binding wire.

(ii) To be used in the manufacture of equipment for the production of textiles.

(iii) To be used in the packaging or marking of meat where the wire comes into actual contact with the meat.

(iv) In the liquor finishing process of fine steel bright wire.

(c) [Deleted July 5, 1946.]

(7) *Lead base alloys for coating.* Lead base alloys containing tin for coating sheet, tubing, wire, foundry chaplets, etc., may be manufactured and used if the tin content of the alloy does not exceed 7% of tin by weight.

(8) *Printing plates and type metal.* Printing plates and type metal containing tin may be made for use by the printing, publishing and related service industries.

(9) *Dental amalgam alloys.* Tin may be used in the manufacture of dental amalgam alloys without restriction as to the tin content of the alloys.

(10) *Pipe organs for religious and educational institutions.* Pipe organs for religious and educational institutions may be manufactured, rebuilt, or repaired with secondary tin.

(11) *Bolster metal.* Bolster metal may be made and used in the manufacture of surgical instruments if the tin content of the bolster metal does not exceed 10% of tin by weight.

(12) *Fusible alloys and dry pipe seat rings.* Pig or secondary tin may be used in the manufacture of dry pipe valve seat rings to the extent required to meet performance specifications; and in the manufacture of fusible alloys for safety purposes only, to the extent required to meet minimum code requirements with respect to the operation of the product in which the alloy is to be contained.

(13) *Tin pipe and sheet.* (a) Pig or secondary tin may be used to make tin pipe, sheet tin, and fittings to repair or maintain beverage dispensing units and their parts, if the consumer for whom the pipe, sheet or fittings are made returns to the supplier a quantity of scrap tin having the same tin content as that of the new pipe, sheet or fittings delivered to him.

(b) Pig or secondary tin may be used to coat copper or brass pipe and fittings for beverage or distilled water dispensing purposes.

(c) Tin pipe or tubes may be used in the manufacture of new soda fountains, food and beverage dispensing units, and where required for conducting chemically pure distilled water.

(14) *Chemicals.* Tin or tin chemicals may be used as laboratory reagents, for medicinal purposes and for plating processes where plating is permitted.

(15) *Tin oxide.* Tin oxide may be used for the production of chrome green, pink, yellow,

and red colors, and for the production of earthenware plumbing fixtures.

(16) *Snap fasteners and hooks and eyes.* Pig or secondary tin may be used to plate snap fasteners, and hooks and eyes.

SCHEDULE II—SOLDERS

(a) *Certificates.* No manufacturer or wholesale distributor shall sell or deliver any solder to a wholesale distributor or retailer and no wholesale distributor or retailer shall purchase or accept delivery of any solder unless the purchaser has given to the seller a statement that he will not resell the solder to a user without obtaining from the user the certificate called for below. No manufacturer, wholesale distributor or retailer shall sell or deliver any solder to a user and no user shall purchase or accept delivery of any solder from a manufacturer, wholesale distributor or retailer unless the user has given to the seller the certificate called for below (see paragraph (n) of Order M-43 regarding export certificate)

The undersigned purchaser certifies, subject to the penalties of section 35 (A) of the United States Criminal Code, to the seller and to the Civilian Production Administration that the tin contained in the material covered by this order shall be used solely for the purpose listed in Schedule II, section — of Conservation Order M-43, or is to be incorporated in an "implement of war" and the tin content of the material has been definitely specified in accordance with paragraph (i) of this order.

_____
(Name of purchaser)

By _____
(Duly authorized official)

(b) *Tin content.* In the manufacture of solder, the tin content by weight shall be limited as follows, according to the purpose for which it is to be used:

Purpose	*Maximum tin content of solder (percent of tin by weight)*
(1) For all cellular type radiators (average per radiator)	21%
(2) For all fin and tube type radiators for military and civilian use (average per radiator)	32%
(3) Soldering end seams on all solder seamed cans	30%
(4) For a filler or smoother for automobile or truck bodies or fenders or for similar purposes	15%
(5) For soldering side seams in the manufacture of cans made with either lock or lap side seams or with a combination of lock or lap seams	5%
(6) For sealing milk cans	21%
(7) For all soldering on motors, generators, electrical equipment, instruments, meters, radio, radar, tanks, fire protection equipment, refrigeration equipment, dairy equipment, and food processing equipment	50%
(8) For soldering aluminum	60%
(9) For other hand soldering operations done either with a soldering iron or with a torch and wiping	40%
(10) For any other soldering operations	35%

(c) [Deleted July 5, 1946.]

SCHEDULE III—BABBITT

(a) No manufacturer or wholesale distributor of babbitt shall deliver any babbitt containing more than 10% tin by weight to any wholesale distributor of babbitt and no wholesale distributor of babbitt shall accept delivery from a manufacturer or a wholesale distributor unless he shall have furnished the manufacturer or other wholesale distributor with a statement on his purchase order to the effect that he will not resell such babbitt containing more than 10% tin by weight to any user unless he has received the certificate from such user set forth below. No manufacturer of babbitt or wholesale distributor of babbitt shall deliver any babbitt containing more than 10% tin by weight to any user and no user shall accept delivery of any babbitt containing more than 10% tin by weight from any manufacturer of babbitt or wholesale distributor of babbitt unless the user shall have furnished the manufacturer or wholesale distributor with the certificate set forth below (see paragraph (n) of Order M-43 regarding export certificate)

The undersigned purchaser certifies, subject to the penalties of section 35 (A) of the United States Criminal Code to the seller and to the Civilian Production Administration, that the tin contained in the material covered by this order shall be used solely for the purpose listed in Schedule III, section — of Conservation Order M-43, or is to be incorporated in an "implement of war" and the tin content of the material has been definitely specified in accordance with paragraph (i) of said Order M-43.

_____
(Name of purchaser)

By _____
(Duly authorized official)

(b) *Tin content.* In the manufacture of babbitt metal and similar alloys used as babbitt, the tin content shall be limited as follows, according to the purpose for which it is to be used:

Purpose	*Maximum tin content of babbitt (percent of tin by weight)*
(1) For the manufacture, repair, maintenance or replacement of multivane crosshead linings in locomotives or for lining aluminum crossheads	Unlimited
(2) Any other bearing purpose	90%

Babbitt may not be used for any purpose except those listed above.

(c) [Deleted February 6, 1947.]

SCHEDULE IV—BRASS AND BRONZE

A. CAST ALLOYS

(a) *Tin content.* No person shall cast or have any person cast for him any copper base alloy containing 1.5% or more tin by weight for other than the specific purposes listed below. The tin content of any such alloy shall not be more than the amount specified for each purpose.

Purpose	*Maximum tin content (percent of tin by weight)*
(1) For the manufacture of high ratio worm gears, fire engine pump gears, jack nuts, feed nuts, elevating nuts, thrust washers or disks, machine tool spindle bearings, hydraulic pump bodies and ends for gear pumps, grinder spindle sleeve bearings, step bearings, internal parts of industrial centrifugal pumps and injectors, and collector rings	12%
(2) For the manufacture of piston rings for locomotives and for air-brake equipment	20%
(3) For use as bearings and bushings	9%
(4) For bearings produced by process of powder metallurgy	10%
(5) For production of or use in tablets, markers, and memorials	3.5%
(6) For all other castings	6%

(b) *Certificate.* Any person receiving copper base alloy castings containing 1.5% or more tin shall furnish his supplier with a certificate on his purchase order stating the end use of such castings (see paragraph (n) of Order M-43 regarding export certificate). All suppliers shall require such a certificate. If the end use is not permitted by M-43, and the purchaser has not special authorization from the Civilian Production Administration or the War Production Board, the supplier shall refuse the order.

(c) [Deleted July 5, 1946.]

B. WROUGHT ALLOYS

Pig or secondary tin may be used to make wrought alloys. However the tin content of any such alloy shall not be more than the amount required for the particular purpose.

SCHEDULE V. WHICH FORMERLY COVERED USE OF TIN TO REPAIR GAS METERS HAS BEEN SUPERSEDED BY ITEM (B) (7) OF SCHEDULE II

SCHEDULE VI—TIN PLATE, TERNE PLATE, AND TERNE METAL

(a) *Definitions*—(1) "Tin plate" means steel sheets coated with tin including electrolytic tin plate and hot dipped tin plate and including primes, seconds and waste-waste but not scrap.

(2) "Terne plate" means steel sheets coated with terne metal including short ternes (coated on tin mill coating machines) and long ternes (coated on sheet mill coating machines) including primes, seconds and long terne waste-waste but not scrap.

(3) "Tin plate or terne plate scrap" means any material or product made in whole or in part of tin plate or terne plate which is the waste of industrial fabrication or which has been discarded after being put into actual use, including tin plate crowns, screw caps or similar closures for various containers. The term also includes tin plate and terne plate sheets recovered from tin plate or terne plate cans or from other articles.

(4) "Reconditioned tin plate or terne plate" means damaged tin plate or terne plate which has been put into usable condition by recoating.

(5) "Terne metal" means a tin-bearing lead alloy used as a coating for plate but does not include lead recovered from secondary sources which contains not more than 3% residual tin.

(6) "Waste-waste" means hot dipped or electrolytic tin coated sheets or steel sheets coated with terne metal which have been rejected during processing by the producer because of imperfections which disqualify such sheets from sale as primes or seconds.

(b) *Manufacture of tin plate and terne plate.* Tin plate and terne plate may be manufactured for the purposes set forth below. However, coating of tin or terne metal per single base box of tin plate or terne plate must not exceed the maximum indicated below for the particular permitted use. No person may use terne metal of over 15% tin in tin mill coating machines. No person may use terne metal of over 10% tin in sheet mill coating machines.

(c) *Manufacture of terne metal.* Pig or secondary tin may be used to make terne metal.

(d) *Certificates.* No person shall sell or deliver any tin plate or terne plate to any person unless he gives with his purchase order a certificate in substantially the following form:

I certify, subject to the penalties of section 35 (A) of the United States Criminal Code, that I will use this tin plate or terne plate for _____ (specify end use) in accordance with Order M-43 or will resell it only in accordance with that order.

_____
(Name of purchaser)

By _____
(Duly authorized official)

See paragraph (n) of Order M-43 regarding export certificate.

(e) *Tin plate and terne plate may be used only for the following purposes:*

Permitted use	Permitted material	Maximum permitted coating of tin or of terne metal (per single base box)
1 All kitchen and cooking equipment.	Electrolytic tinplate.	0 25 lb. per base box.
2 Baking pans for institutions and commercial bakers	Hot dipped tin plate	1 25 lbs per base box
	Electrolytic tin plate.	0 50 lb per base box
	Reconditioned tin plate.	
3 Brushes power driven	Short ternes	1 30 lbs per base box
	Long ternes	4 lbs per base box.
	Reconditioned terneplate	
4 Cans.	As permitted by Conservation Order M-81 as amended	
5 (a) Closures for all food products (excluding malt beverages and nonalcoholic beverages) if preserved in a hermetically sealed container made sterile by heat; and olives, pickles, relishes, sauces, vinegar, French dressing, flavoring extracts, spices mustard, horseradish and cherries.	Hot dipped tin plate	1 50 pounds per base box.
(b) Closures for meat and fish and products made from them; ice cream mix; apple cider and juice; fruits (only crush, fountain fruit and ice cream toppings) soup mix, cheese spreads; spaghetti and macaroni products corn beef hash and sauer kraut	Electrolytic tin plate	0 50 pound per base box
(c) Closures for biologicals; blood plasma; drug chemicals; dental supplies; glycerites; liniments of ammonia; magmas; drug oils; ointments; penicillin; prescriptions; medicinal soaps; aromatic spirits of ammonia; ammonia products, aromatic chemicals; reagent chemicals; deodorants, liquid or paste (not for use on human body); dyes; germicides; hypochloride powders; phenols; photographic supplies; and all other liquid chemicals.	Electrolytic tin plate	0 50 pound per base box
(d) Closure for home canning	Electrolytic tin plate	0 50 pound per base box
(e) Closures to be purchased by or for the account of the American Red Cross, Office of Scientific Research and Development or the Panama Canal, including the Panama Railroad Company or for shipment outside the forty-eight States of the United States and the District of Columbia (General exceptions for certain other governmental agencies are included in item 30 below.)	As specified	
(f) Closures for steel drums.	Hot dipped tin plate	1 25 lbs. per base box
	Electrolytic tin plate	0 50 lb. per base box.
	Short ternes	1 30 lbs. per base box
	Long ternes	4 lbs. per base box.
(g) All other closures and crowns.	Electrolytic tin plate	0 25 pound per base box
6 Carbide non explosive emergency lights	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box.
	Reconditioned terne plate.	
7 Chaplets skimgates and tin forms for foundry use.	Hot dipped tin plate	1 25 lbs. per base box.
	Electrolytic tin plate.	0 50 lb per base box.
	Reconditioned tin plate	
	Short ternes.	1 30 lbs. per base box.
	Long ternes	4 lbs per base box.
	Reconditioned terne plate.	
8 Cheese vats	Hot dipped tin plate.	11 lbs per base box.
	Reconditioned tin plate	
9 Component parts for Internal Combustion engines including air cleaners, cooling systems, fuel systems, and lubricating systems, but only where less essential material is impractical because of corrosion or solder ability	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
10 Cylinder liners for lard and fruit presses	Hot dipped tin plate.	1 25 lbs per base box.
11. Dairy ware and equipment including dairy pails milk strainer pails, hooded milking pails, milk kettles, setter or cream cans, weigh cans measures and test ware bottle conveyors, ice cream freezers, milk filters, receiving tanks, separators, strainers, upper and lower troughs and covers for surface type heaters and coolers and testing equipment.	Hot dipped tin plate	3 30 lbs per base box (2A char coal)
	Electrolytic tin plate.	0 50 lb per base box.
	Reconditioned tin plate.	

(e) *Tin plate and terne plate may be used only for the following purposes*—Continued

Permitted use	Permitted material	Maximum permitted coating of tin or of terne metal (per single base box)
12. Diamond cutting wheels.	Electrolytic tin plate.	0 50 lb per base box.
	Reconditioned tin plate	
13 Dusters and sprayers, hand, for disinfectant and pest control: parts requiring solderable coatings.	Short ternes	1 30 lbs per base box.
	Long ternes	4 lbs per base box.
	Reconditioned terne plate.	
	Electrolytic tin plate.	0 50 lb per base box.
	Reconditioned tin plate.	
14 Equipment or appliance parts requiring solderable coatings	Short ternes	1 30 lbs. per base box
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
	Electrolytic tin plate	0 25 lb. per base box.
15 (a) Fuel tanks except for automotive equipment	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box.
	Reconditioned terne plate	
(b) Fuel tanks for automotive equipment.	Short ternes	1 30 lbs. per base box
	Long ternes	6 lbs per base box.
	Reconditioned terne plate.	
16 Gas mask canisters.	Short ternes.	1 30 lbs. per base box.
	Long ternes.	4 lbs per base box
	Reconditioned terne plate.	
17 Gas meters.	Hot dipped tin plate	3 30 lbs per base box (2A char coal).
	Electrolytic tin plate	0 50 per base box.
	Reconditioned tin plate.	
	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
18 Heat exchangers.	Short ternes	1 30 lbs per base box
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
19 Integral parts of signal cells—but only for current collectors and baskets	Hot dipped tin plate	1 25 lbs per base box
	Electrolytic tin plate.	0 50 lb per base box.
	Reconditioned tin plate.	
20 Lining of drying chambers for milk and egg dehydration	Hot dipped tin plate.	11 lbs per base box.
	Reconditioned tin plate.	
21 Maple syrup evaporators	Hot dipped tin plate.	11 lbs per base box.
	Reconditioned tin plate.	
22 Oilers (excluding cans as defined by Order M-81)	Short ternes	1 30 lbs. per base box
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
23 Oil lanterns.	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
24 Repair parts for domestic laundry equipment	Hot dipped tin plate	1 25 lbs. per base box
	Electrolytic tin plate.	0 50 lb per base box
	Reconditioned tin plate.	
25 Safety cans for inflammable liquids.	Short ternes.	1 30 lbs. per base box
	Long ternes.	4 lbs per base box
	Reconditioned terne plate	
26 Textile spinning cylinders card screens spools and bobbins.	Hot dipped tin plate	1 25 lbs. per base box
	Electrolytic tin plate.	0 50 lb per base box
	Reconditioned tin plate	
	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
27 Torpedoes for oil and gas well shooting	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate.	
	Hot dipped tin plate	1 25 lbs per base box.
28 Vaporizing liquid fire extinguishers.	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box
	Reconditioned terne plate	
29 Wick holders for oil stoves	Short ternes	1 30 lbs. per base box.
	Long ternes	4 lbs per base box.
	Reconditioned terne plate.	
30 Articles to be purchased by or for the account of the Army and Navy of the United States the United States Maritime Commission and the Veterans' Administration.	As specified (including performance specifications)	

(f) *Additional permitted uses.* Any person may use electrolytic tin plate waste waste hot dipped tin plate waste waste, terne plate waste waste tin plate scrap, or terne plate scrap for any purpose In addition any person may use tin plate or terne plate for any purpose (except to make items listed in paragraph (k) of order M-43) if his total annual consumption of tin plate and terne plate does not exceed 100 base boxes

(g) *Optional use of 0 25 tin plate for terne plate* Where ternes or terne plate is permitted to be used for an item listed in paragraph (e) above a manufacturer may substitute electrolytic tin plate with a maximum permitted tin coating of 0 25 pounds per base box for that item

[F R Doc 47-4254; Filed May 1 1947; 11:57 a m]

PART 1042—IMPORTS OF STRATEGIC MATERIALS

[General Imports Order M-63 Revocation]

Section 1042 1 *General Imports Order M-63* is revoked

Impdrt provisions for certain materials are now contained in other CPA orders (M-43 M-84) covering the particular materials Those orders provide for the continuing validity of outstanding import authorizations granted, under Order M-63, for the particular materials

This revocation does not affect any liabilities incurred for violation of this order, or of any actions taken by the War Production Board or the Civilian Production Administration under it

Issued this 1st day of May 1947

CIVILIAN PRODUCTION ADMINISTRATION,
By J JOSEPH WHELAN,
Recording Secretary

[F R Doc 47-4255; Filed May 1 1947; 11:57 a m]

Chapter XI—Office of Temporary Controls, Office of Price Administration

PART 1300—PROCEDURE

[Amdt 3]

MISCELLANEOUS AMENDMENTS

The statement of procedures as required by section 3 (a) (2) of the Administrative Procedure Act (11 F R 177A-634 through 177A-640 of the FEDERAL REGISTER of September 11 1946) is amended in the following respects:

1 The list of forms in § 1300 1103 is amended to read as follows:

RENT DEPARTMENT

All forms listed below are available at the Office of Temporary Controls Office of Price Administration, Washington 25 D C

OPA Form D-1 (3-47)	Landlord s Application for the Adjustment of Maximum Rents of Housing Accommodations (excluding hotels and rooming houses)
OPA Form D-2 (11-46)	Landlord's Petition for, or report of, Decrease in Services, Furniture, Furnishings or Equipment
OPA Form D-3 (1-47)	Landlord s Petition for Determination of Maximum Rent
OPA Form D-4 (2-47)	Seller s application for certification by the Administrator that a proposed eviction is in accordance with the regulations
OPA Form D-5	Notice to Tenant and Tenant s Statement.
OPA Form D-6	Landlord s Petition for Adjustment of Rent for Hotels and Rooming Houses.
OPA Form D-8	Notice to be served on Defense Area Rental Director by landlord who initiates eviction proceedings
OPA Form D-9	Landlord's Application for Review of Rent Director's Determination
OPA Form D-9A (3-47)	Notice to OPA to accompany landlords' refund of rental overcharges
OPA Form D-9B (2-47)	Application for Review of Eviction Proceedings
OPA Form D-9C (3-47)	Transmittal to Tenant of Landlord s Application for Review of Eviction Proceedings
OPA Form D-9D (3-47)	Transmittal to Landlord of Tenant s Application for Review of Eviction Proceedings
OPA Form D-14 (11-46)	Rent Examiner and Inspector Report and recommendations of basis for possible rent changes.
OPA Form D-18 (3-47)	Notice by the Rent Director of Proposal to Decrease Maximum Rents.
OPA Form D-19 (2-46)	Notice by the Rent Director of Intention to fix Maximum Rents

RENT DEPARTMENT—Continued

OPA Form D-25	Report of Change in Tenancy
OPA Form D-25NY	Report of Change in Tenancy in New York Defense Rental Area
OPA Form D-32 (3-44)	Occupant s Report of Tenancy or Ownership
OPA Form D-32A (5-45)	Report of Present Occupancy
OPA Form D-33 (5-46)	Landlord s report of intention to rerent after eviction
OPA Form D-44 (10-45)	Rent Director s notice affording opportunity to person involved in a specific action to present evidence in support of allegations
OPA Form D-49 (4-44)	Survey of Rents Paid by Tenants
OPA Form D-51 (1-45)	Landlord s Petition to be Relieved from Renting on Weekly or Monthly Basis
OPA Form D-54 (7-44)	Landlord s Petition for Adjustment of Rent Due to Peculiar Circumstances
OPA Form D-56 (9-44)	Landlord s Petition for Security Deposit
OPA Form D-58 (10-46)	Landlord s application for adjustment of maximum rents because of substantial hardship incurred by reason of increases in property taxes or operating costs
OPA Form D-58A (2-47)	Landlord s Application for Adjustment of Maximum Rents Because of Substantial Hardship Incurred by reason of increases in property taxes or operating costs—for housing accommodations other than hotels
OPA Form D-58B	Landlord s Application for Adjustment of Maximum Rents Because of Substantial Hardship Incurred by reason of increases in property taxes or operating costs, without requiring a projection of estimated cost increases
OPA Form D-61 (2-47)	Report of Change in Identity of Landlord
OPA Form D-66 (3-47)	Notice to Tenant Regarding Possible Overcharge
OPA Form DDU	Registration of Rental Dwellings
OPA Form DHU	Registration Statement by Hotels, Rooming Houses and Similar Accommodations
OPA Form DH-NY	Registration Statement by Hotels and Rooming Houses for New York Defense Rental Area
OPA Form DH-US (11-46)	Supplementary Registration for Hotels, Rooming Houses and Motor Courts
OPA Form DH-DC	Application for Decontrol of Daily Rates of Transient Rooms in Hotels and Motor Courts
OPA Form DD-M	Registration for Rental Dwellings in Miami Defense Rental Area
OPA Form DD-1 (1-47)	Registration of Public Housing Rental Dwelling Units
OPA Form DP-2	Registration of Publicly Constructed and Owned Dormitories, Trailers and other Housing Accommodations subject to the Maximum Rent Regulation for Hotels and Rooming Houses
OPA Form DD-2-NY	Registration of Rental Dwellings, excluding Hotels and Rooming Houses located in the New York City Defense Rental Area
OPA Form D-SC-3NY (2-46)	Tenant s Complaint of a Reduction in Painting and Decorating Services
OPA Form D-1-M	Landlord s Petition for Adjustment of Rent for Housing Accommodations other than Hotels and Rooming Houses in the Miami Defense Rental Area

SUGAR DEPARTMENT

All forms listed below are available at the Office of Temporary Controls Office of Price Administration Washington 25 D C

OPA Form R-122	Statement of Appeal—Rationing—By Persons Seeking Appeal from Action of Sugar Branch Office or Regional Office
OPA Form R-135A (Rev 11-46)	Statistical Report on Ration Banking used monthly by ration banks to report statistical data monthly reports
OPA Form R-146 (Rev 12-46)	Application for Sugar Ration Book used by a consumer who has never received or who has surrendered to OPA a War Ration Book Four or a sugar ration book
OPA Form R-156 (6-44)	Advance Shipment Notice Ration Currency transmitted by ration bank to advise Regional D V I Center of a shipment of ration evidences by the bank
OPA Form R-160 (8-44)	Bank Report of Overdrawn Ration Accounts
OPA Form R-194 (Rev 12-46)	Consumer Replacement Application used by a consumer in applying for the replacement of a lost, destroyed stolen wrongfully withheld or mutilated ration book or sugar ration coupon.
OPA Form R-346 (Rev 1-46)	Semi-Annual Sugar Inventory Report by Wholesalers and Chain Retailers
OPA Form R-347 (Rev 3-46)	Primary Distributor Reconciliation Statement
OPA Form R-353 (1-46)	Application for a Temporary Sugar Ration by a member of the armed forces who is not entitled to a ration book and who needs a sugar ration in order to eat at the home of relatives or friends while on leave furlough temporary duty or authorized absence
OPA Form R-356 (1-46)	Bee Feeder s Sugar Application and Usage Report filed with the Sugar Branch Office by a person who needs sugar for feeding bees
OPA Form R-357 (1-46)	Industrial User Application for Increased Allotment Based on Population Increases
OPA Form R-358 (1-46)	Trade Application for Replacement of Mutilated Lost De stroyed or Stolen Coupons and/or stamps
OPA Form R-359 (1-46)	Industrial User s Application for Quarterly Provisional Allowance
OPA Form R-359A (1-46)	Industrial User s Monthly Usage Report
OPA Form R-360 (Rev 1-47)	Application for Provisional Allowance of Sugar for Bulk Sweetened Condensed Milk
OPA Form R-361 (1-46)	New Provisional User s Report of Receipts and Production of Milk and Dairy Products for 12 Months Previous to One for Which Application is Made
OPA Form R-362 (1-46)	Application for Temporary Allowable Inventory of Sugar filed by a retailer or wholesaler in applying for a temporary allowable inventory of sugar
OPA Form R-362A (Rev 7-46)	Retailer or Wholesaler Report on Temporary Sugar Inventory and Establishment of Permanent Allowable Inventory
OPA Form R-365 (1-46)	Adjustment Application for Certain Manufacturers Using Sugar-Containing Products
OPA Form R-373 (2-46)	Adjustment Application for Certain Manufacturers Using Sugar provided the use of sugar by the manufacturer was unrepresented during the base period because of pre-rationing investment fire flood strike etc
OPA orm R-374 (7-46)	Application for Additional Sugar Because of Illness
OPA Form R-375 (9-46)	Request for Report on Imported Sugar Containing Products
OPA Form R-376 (10-46)	Report on Production of Sugar Containing Products for Army Navy and Other Exempt Agencies
OPA Form R-380 (2-47)	Application for a Base or Adjustment in Base by War Producers Who Invested In Productive Equipment for use in making products for designated agencies

SUGAR DEPARTMENT—Continued

OPA Form R-382 (2-47)	Application for Inventory Adjustment for Wholesalers and Retailers
OPA Form 550-37 and 550-37a	Public Voucher for Ration Banking used quarterly by banks to make reimbursement claims for ration banking activity.
OPA Form R-1200 (Rev. 11-43)	Registration of Industrial Users
OPA Form R-1226 (Rev 6-46)	Veterans Application for Registration and Assignment of Base
OPA Form R-1226A (Rev 6-46)	Application for a Sugar Base(s) by a Veteran Who Sold His Sugar-Using Business Because of Entrance into the Armed Forces
OPA Form R-1227 (Rev 7-46)	Application for Ration Evidences for Sugar to be Exported
OPA Form R-1230 (Rev 1-47)	Industrial User s Application for Allotment, filed by industrial users in applying for regular quarterly allotments
OPA Form R-1231 (10-46)	Manufacturers of Bulk Sweetened Condensed Milk (Registration of Industrial Users)
OPA Form R-1307 (Rev 10-46)	Application for Registration of New Institutional User
OPA Form R-1309 and OPA Form R-1311	Institutional User s Application for Allotment Institutional User s Daily Record in reporting operations of the preceding period when applying for allotments for the current period
OPA Form R-1314 (1-44)	Work Sheet for Institutional User Bases
OPA Form R-1334 (Rev 5-46)	Application for Allotment for Floating Craft by Group IV institutional users in applying for allotments for employees on board ships boats tugs and barges
OPA Form R-1335 (12-45)	Application for Sugar Coupons by Group I Seasonal Users who must obtain sugar before customers arrive on location
OPA Form R-1336 (12-45)	Application for Supplemental Allotments Due to Increase in Business (All institutional users except Group I)
OPA Form R-1337 (Rev 5-46)	Application for Allotment by Occasional Users
OPA Form R-1338 (Rev 1-46)	Application for Allotment for Certain Employers filed by Group I institutional users and employers who are not institutional users who hire temporary employees for periods of less than 60 days; also by those who hire imported laborers regardless of the length of employment
OPA Form R-1339 (12-45)	Notice of Sale or Transfer of Institutional User Establishment—must be filed by both the transferor and the transferee when an institutional user establishment changes hands
OPA Form R-1341 (Rev 1-47)	Application for Allotment for Isolated Logging Camps (Group IV)
OPA Form R-110 (Rev 2-45)	Window Insert—An insert designed for use in window envelopes which is to be filled out by an applicant for sugar rations

ENFORCEMENT DEPARTMENT

All forms listed below are available at the Office of Temporary Controls Office of Price Administration Washington 25 D C

OPA Form 291-166 (3-46)	Statement of Financial Condition and Other Information to be filed with offer of compromise in enforcement proceeding
OPA Form 292-144 (4-46)	Investigator s report of cost to the seller and prices charged for Apparel Accessories and Textiles under MPR 580
OPA Form 292-145	Investigator's report of cost to the seller and prices charged for Flat Priced Articles Preticketed by Manufacturer or Wholesaler under section 13 of MPR 580
OPA Form 292-146 (3-46)	Investigator's report of cost to the seller and prices charged for Essential Low-Priced Garments under RMPR 578
OPA Form 292-147 (4-46)	Investigator s report of cost to the seller and prices charged for Women s Girls, and Children s and Toddlers Outerwear under RMPR 330

ENFORCEMENT DEPARTMENT—Continued

OPA Form 292–154 (3–46)	Investigator's report of cost to the seller and prices charged for Work Clothing Group—RMPR 203 (Staple Work Clothing); RMPR 304 (Utility Shirts); RMPR 506 (Work Gloves).
OPA Form 292–156 (3–46)	Investigator's report of cost to th seller and prices charged for Nylon Hosiery under MPR 602 and Rayon Hosiery under 2nd RMPR 339.
OPA Form 296–136 (Rev.)	Questionnaire to consumer asking whether a used car was purchased over ceiling.
OPA Form 298–36	Landlord Statement of Rent Roll.
OPA Form 298–46	Questionnaire to consumer asking whether a new car was purchased over ceiling.
OPA Form 298–49	Tenant's Statement of Rental Charges.
OPA Form 298–65	Letter to Landlord—Request to Attend Settlement Conference.
OPA Form D–406 (4–45)	Receipt of Refund for Rent Collected in Excess of Legal Maximum.
OPA Form 296–168b	Questionnaire to consumer asking whether a durable goods item was purchased over ceiling.

2. Section 1300.1104 is added to read as follows:

§ 1300.1104 *Enforcement exceptions*—(a) *Application of sanctions to violations and granting enforcement exceptions*—(1) *Scope.* The procedure stated in this section shall apply to all cases handled in the enforcement division.

(i) This procedure shall not apply to cases being handled by the area rent offices.

(ii) This procedure does apply to cases stated in subparagraph (i) when such cases have reached the enforcement division by referral.

(2) *Application of sanction*—(i) *General.* No case which discloses a violation shall be closed without the application of a formal sanction e. g. criminal, license suspension, contempt, treble damage (suit or settlement) injunction or administrative suspension, except as stated in (2) (ii) (*a*) through (*d*) The determination concerning the appropriate formal sanction shall be based on outstanding instructions. Civil cases involving overcharges shall include a claim for treble damages. License warning notices are not formal sanctions, but in accordance with outstanding instructions, they shall be issued in conjunction with formal sanctions wherever ultimately a license suspension suit would be appropriate in the event of further violation.

(ii) *Exceptions.* There shall be no deviation from this procedure except where:

(*a*) The violation is clearly trivial and inconsequential. Such case may be closed with an appropriate admonitory letter. A violation is considered trivial only where the overcharge is extremely small and the nature of the violation is very minor in terms of price control objects to be accomplished by the regulation.

(*b*) No formal sanction is available under law.

(*c*) An enforcement exception is granted by the deputy commissioner for enforcement. There may be cases where compelling equitable features suggest that formal sanction be withheld or withdrawn, in whole or in part. It is impossible to leave such decisions to the determination of each office. Experience has shown that a serious lack of uniformity results and often the full implications of such a decision are not evident to the members of one office.

(3) *Procedure for securing an official enforcement exception.* (i) The regional enforcement executive, on his own motion or upon request from the regional administrator or regional section chief, may submit to the deputy commissioner for enforcement a request for consideration of the issuance of an enforcement exception in any case. The request shall be accompanied by

(*a*) A memorandum setting forth the entire facts of the case with a recommendation of the type of exception, and a proposed statement of a rule to cover similar cases.

(*b*) An investigation report or a copy.

(*c*) If the regional enforcement executive is requested to submit such a memorandum by any of the other officials named above, he shall submit such memorandum with a notation of his views.

(ii) Before transmitting the request for consideration of the issuance of an enforcement exception, the regional enforcement executive shall submit the matter to the regional administrator so that the latter may join in the request, or express his opinion thereon, or submit additional facts as he thinks significant to a consideration of the request.

(iii) Decisions with respect to each case considered under this section are published as appendices to this section.

(4) *The deputy commissioner for enforcement.* The deputy commissioner for enforcement reserves the right, on his own motion, to grant an enforcement exception in any appropriate case after consultation with the regional enforcement executive in the region where the specific case is pending.

(5) *Procedure subsequent to granting of enforcement exception.* If an enforcement exception is granted by the deputy commissioner for enforcement, either upon request or upon his own motion, a statement of the rule covering the enforcement exception will be issued to all enforcement attorneys for future application in similar cases. Enforcement attorneys are instructed to apply all outstanding enforcement exceptions to cases which, in whole or in part, fall within the rule stated in the exception.

(i) Any case upon which an enforcement exception has been issued, and all similar cases falling within the same rule, shall show within the file that the disposition, in whole or in part, has been governed by the specific enforcement exception.

(ii) The rules stated in enforcement exception shall govern all cases falling within the rules, irrespective of whether or not formal sanction has already been instituted, but shall not apply to completed sanction cases.

(iii) There are certain types of situations which will not *alone* be considered sufficient for the granting of an enforcement exception:

(*a*) Where the defendant claims that his violation was committed subsequent to an interpretation not given in accordance with Procedural Regulation No. 1.

(*b*) Where the defendant after violation applies for and receives a price adjustment.

(*c*) Where the defendant claims that he had to charge a higher price because the ceiling price was too low for him, or for the industry.

(*d*) Where the defendant claims that he charged over the ceiling because he was required to purchase over the ceiling.

(iv) In every exception where the seller is required clearly to prove certain facts, he shall have the burden of bringing forward any facts not already in the file. Affidavits by the seller and/or his purchaser, unsupported by records or other competent evidence, shall not be considered sufficient to prove clearly the facts which must be established. No evidence presented by a seller shall be considered as proof unless it is easily verifiable by OPA and no suit shall be dismissed unless the facts have been so verified. No recommendation to dismiss a case shall be made, and no case shall be dismissed unless the person considering the case is convinced that the requisite facts have been established.

(b) *Enforcement exceptions* — (1) *Case No. 1. Enforcement exception granted—C–1.*

Facts. A retailer who must price under MPR 330 determines his ceiling price by applying a percentage markup to the price charged by the supplier, not exceeding the supplier's ceiling price under MPR 237, a manufacturer's cost-plus regulation. The retailer receives delivery of the merchandise from the supplier, and does not know, and has no reason to suspect that the supplier's price is, in fact, higher than ceiling. The retailer added his own legal mark-up to the supplier's ceiling price, and thus resold half the merchandise.

Decision. Enforcement exception granted as to all such sales already made by the retailer or any other seller similarly situated.

Basis. Granted that retailer is in violation as to the past sales, it is clear that there was nothing to cause him to question the legality of the supplier's price or to determine what was the supplier's ceiling price. If the enforcement attorney is satisfied in his own mind that, viewing all of the relevant circumstances, the retailer did not know and had no reason to make further inquiry to ascertain whether the supplier's ceiling price was over ceiling, then the use of any sanction against the retailer would be meaningless in terms of gaining deterrent effect. The same considerations would also apply to some sellers other than retailers if they are required under applicable regulations to determine their ceiling price by applying a

markup to the price charged by the supplier, not exceeding the supplier's ceiling price.

How far any seller should be expected reasonably to go in order to verify the supplier's ceiling price depends on many factors, including: the relationship of the parties; the nature of the industry and the transaction; the nature of the applicable regulations; circumstances which might arouse suspicion such as very high prices, unusual invoicing, unusual explanations or communications by the supplier.

If the supplier's ceiling price is based on a dollar and cent regulation, it is difficult to conceive how the seller could contend that he was without knowledge or means of knowledge. And, even though a supplier might be willing to give abundant assurances and certifications, the circumstance that the supplier is selling out of a suitcase or is invoicing on hotel stationery or is requesting a portion of the payment in cash would be sufficient to satisfy the enforcement attorney that the seller is not within the exception.

It is true that the granting of the enforcement exception, insofar as retailers are concerned, cannot deprive a consumer of his right of action, but this consideration does not preclude the Agency from making a determination with respect to the sanctions available to the Administrator.

With respect to the merchandise remaining unsold by the seller, if he is told that the pricing was improper he is no longer in a position to say that he could reasonably do nothing to protect himself against the possibility of violating. If he does not reprice on the basis of proper allowable cost, he has elected to take his chances and appropriate sanction should then be applied.

It does not follow that because a seller has been informed of a violation by a supplier that the seller cannot ever again be in a position where this enforcement exception would be applicable. The main question would be whether the notice to the seller made it reasonably possible for him thereafter to ascertain the supplier's ceiling price; and, even though such an incident would ordinarily increase the seller's obligation to inquire, it might still be reasonable to conclude that the seller could not help himself.

Where the seller has some undelivered merchandise and therfore must reprice it is immaterial that the legal price for the seller would be less than what he paid the supplier. The enforcement exception will not be used prospectively to authorize an illegal price for future transactions.

Rule. Where any seller's ceiling price is based on fixed or percentage mark-up over supplier's price, not exceeding supplier's ceiling price, and where seller does not know and has no reason to make further inquiry to determine that supplier's selling price exceeded ceiling, enforcement exception granted as to all such sales by seller insofar as seller used proper legal mark-up. On all merchandise remaining unsold seller must reprice on basis of legal allowable cost.

Coverage. All regulations in all commodity fields at all applicable industry levels.

Washington, D. C., December 19, 1945.

(2) *Case No. 2: Enforcement exception denied.*

Facts. An owner of a house rented to a tenant in August 1944 at $50 per month. The owner first registered the premises with the Area Rent Office in January 1945. The tenant moved out of the premises, without notice to the owner, in March 1945, and the tenant cannot be located. In July 1945, the Area Rent Director had the premises inspected and issued a reduction order of $35 per month retroactive to August 1944. While in possession, the tenants substantially damaged the house, with the result that the owner had to spend approximately $500 for repairs. The amount of the overcharge is $120.

Decision. Enforcement exception denied.

Basis. The owner contends that if he had known of the reduction order before the tenant vacated the premises and disappeared, the owner would have had an off-set against any claim of the tenant based on the overcharge. This contention overlooks the fact that the owner himself caused the situation by not registering on time.

Nevertheless, if the owner had registered at an earlier time (but not within the time required by the regulation), our conclusion would not be different. The recommendation for enforcement exception appears to be predicated on a theory that the tenant has acted prejudicially and therefore the weapons of rent control should not be used in support of that type of tenant. Even if the prejudice created by the tenant had been something inherent in rent control, for example, if the contention were that the tenant induced the owner to overcharge, the Agency could not accept such a contention because of the realization that pressures by tenants and consumers must be resisted just as much as pressures by landlords and sellers. Therefore, to find any field for an enforcement exception based on such prejudice, the activity of the tenant or consumer would have to be foreign to the field of rent or price control. This would place upon the Agency an impossible administrative burden of determining in foreign fields whether or not the conduct of the tenant or consumer was such as to give the landlord or seller an independent right of action. A judicial forum is available for the determination of such questions, and it is no fault of the Agency that personal jurisdiction might be unobtainable.

The contention is made that the application of sanction in this type of case would result in a dangerous public relations reaction. If the foregoing analysis is correct, the Agency is well fortified with a proper statement of its position. A decision to grant or deny an enforcement exception cannot be predicated solely on the possibility of an antagonistic reaction.

Washington, D. C., December 19, 1945.

(3) *Case No. 3: Enforcement exception denied.*

Facts. Amendment No. 10 to MPR 260 (cigars, cigar cuttings, and clippings) was announced November 9, 1944, effective November 13, 1944. The amendment provided for changes in the pricing of cigars by manufacturers, and the appropriate passing on of certain price increases. Prior to Amendment No. 10, the manufacturer was required to state on each box of cigars the exact maximum retail price as determined under the regulation. On or before the first delivery of any cigars, the manufacturer was required to notify each purchaser of the manufacturer's maximum list price and the maximum retail price. The notification was to be in a form prescribed by the regulation and refer to the cigars by brand. No notification after the first was required unless the manufacturer's maximum price was thereafter adjusted. Similar notice provisions were required of the wholesaler. The regulation, prior to Amendment No. 10, also provided that upon receipt of the notification from the manufacturer of an adjustment, the wholesaler could adjust his maximum list price to an amount not in excess of the manufacturer's maximum list price; and, with reference to his floor stocks, the wholesaler was then required to state in plainly visible numerals on each box of cigars the exact adjusted maximum retail price.

Amendment No. 10, in authorizing the increase for manufacturers, expressly excluded any increase by wholesalers with respect to floor stocks on hand prior to November 13, 1944. However, while the form of notice from the manufacturer to the wholesaler and from the wholesaler to the retailer, was changed in some respects by this amendment, it did not refer, within itself, to any delivery dates. It merely contained the customary notification that on a named brand the OPA has established a maximum list price and a maximum retail price in certain amounts.

The press release issued on November 9 makes no reference whatsoever to wholesalers but refers extensively to the new pricing formula for manufacturers and the effect on the consumers. Any reference to the exclusion of floor stocks on hand on or before November 12, 1944, is absent. The wholesaler read trade releases which were based on the official press release and which made no reference to existing floor stocks. He received notifications from manufacturers based on Amendment No. 10 and adjusted his prices for his floor stocks during the period of November 13 to December 27, 1944, on which latter date he was first informed that the notices delivered to him under Amendment No. 10 applied only to deliveries made by manufacturers after November 12, 1944, and which was the first time he saw Amendment No. 10 itself.

Decision. Enforcement exception denied.

Basis. The most that can be said is that the circumstances might explain why the wholesaler failed to read the amendment itself, and that therefore there was neither wilfulness nor failure to take practicable precautions. As in any Chandler defense situation, the case appeals to sympathy, but nothing is clearer than our statutory and policy mandate that such a defense operates only to reduce damages to single overcharges and to eliminate the propriety of an injunction. An enforcement exception is, basically, available only where enforcement action would serve no useful price, enforcement, or administrative policy. In the case of Enforcement Exception C-1, no useful price, enforcement or administrative policy would be served by the application of any sanction against a seller because there was no conceivable way in which such a seller could take any greater steps in the future to avoid a repetition of the violation. In the instant case, the reading of the amendment itself would have been a sufficient deterrent to violation. Here, there was an overcharge in excess of the ceiling, which had an inflationary effect, by one who benefited by receiving the overcharge even while competitors who complied fully with the regulation were held to a lower price. If this exception were granted, it would be only fair and logical to extend it to all Chandler defense cases.

(4) *Case No. 4. Enforcement exception denied.*

Facts. A manufacturer reports to OPA that he cannot deliver his product unless the regulation is amended to permit a higher price. The OPA informs him orally that a higher price will be allowed and that the order will be issued in two weeks. The manufacturer then waits two weeks and starts making deliveries, on the assumption that the order had been issued. The order was not yet issued. Investigation further reveals that a small amount of delivery was made prior to the commencement of the two-week period, but no enforcement exception is considered for those sales.

Decision. Enforcement exception denied.

Basis. The granting of an enforcement exception based on an oral statement by an OPA representative that an order will be issued would constitute a major break in Procedural Regulation No. 1. It is well known that in the administration of the numerous regulations there must necessarily be some discussion with interested firms concerning the possibility of the issuance of appropriate orders or amendments. The Agency must

maintain the position that the conclusion of such discussions can be manifested only in the manner prescribed by law and by the regulations of the Agency. Were an enforcement exception to be granted on the basis of unofficial prediction by any representative of OPA, the task of enforcing regulations would become severely burdensome because enforcement attorneys would be required to examine the merits of every such unofficial prediction.

(5) *Case No. 5. Enforcement exception denied.*

Facts. Subject is a meat wholesale slaughterer. Criminal proceedings were instituted against him by reason of overcharges accompanied by cash on the side and false invoicing. Subject pleaded guilty and was fined $2,000. Subsidy withholding for the period amounts to approximately $26,000. Subject contends that the total amount of overcharges reflected in the information was small; that he theretofore had a good history of compliance; and that the judge who imposed the fine did not know of the possibility of a subsidy withholding. Subject's contentions are supported by letters from former employees of the Office of Price Administration.

Decision. Enforcement exception denied.

Basis. Subject's plea of guilty to criminal violation disposes of any justification for considering subject's prior good reputation, even if that factor would ever be material in considering an Enforcement Exception. The enforcement policy of this Agency certainly cannot be predicated on gratuitous opinions of former employees who no longer carry any responsibility to the Agency for the development of sound and uniform policy.

There is no merit in the contention that subject might not have pleaded guilty if he had known of the possibility of subsidy withholding in addition to the fine. The government charged the commission of a serious offense, and it cannot be bound by the mental process by which subject may have decided that it would be to his monetary advantage to admit his guilt.

Nor is there merit in the argument that the Court might have acted otherwise. Subsidy withholding is based on the fact of violation, irrespective of the degree of culpability. That fact was established.

The size of the total provable overcharges is clearly immaterial here in view of the admission that the violation was not trivial and inconsequential.

Washington, D. C., March 29, 1946.

(6) *Case No. 6: Enforcement exception granted—C-2.*

Facts. A retailer entered into a contract with a manufacturer for the delivery to the retailer of 5,000 cultivators in monthly installments, order prepaid. The retailer properly priced the cultivators under GMPR. When the retailer had received approximately half the delivery, the manufacturer received an order from OPA under MPR 188 fixing his ceiling price and requiring a tagging of a retail price announced in the order. The order was duly filed and published in the FEDERAL REGISTER. The retail price fixed in the order was lower than the GMPR price at which the retailer was selling. Although the manufacturer thereafter continued to make deliveries to the retailer under the contract, the retailer had no direct knowledge of the order. When the retailer was first informed of the order, he discontinued the sales at the GMPR price.

Decision. Enforcement exception granted as to all such sales already made by the retailer or any other seller similarly situated.

Basis. Enforcement Exception C-1 would have applied automatically to this case, except for the fact that here the retailer's ceiling price was not "based on fixed or percentage markup over supplier's price, not exceeding supplier's ceiling price." But the underlying reason is substantially the same. The retailer was engaging in a course of legal conduct until, by the act of the Agency on application of the manufacturer, the retailer's price became illegal. While it is true that publication in the FEDERAL REGISTER constitutes constructive notice to all, there is nothing to prevent the Agency from adopting a policy which does recognize the fairness of withholding sanction under proper circumstances. There was nothing to cause the retailer to inquire whether the manufacturer had applied for any price, or whether one had been ordered, or whether the order affected the retail level. In cases such as these, it is unreasonable to expect the retailer to watch the FEDERAL REGISTER scrupulously because of the mere possibility of publication of an order that might directly affect him.

The same considerations would also apply to some sellers other than retailers who could find themselves in the same position.

As in Enforcement Exception C-1, the exception does not apply to merchandise remaining unsold after the seller has been told or has otherwise learned of the change in legal price. The undelivered merchandise must be repriced.

Rule. Where any seller has been selling at or less than the ceiling price, and where the supplier has applied for a price which the agency orders and duly publishes in the FEDERAL REGISTER, and where the order also fixes a price for the seller which is less than he has been charging, and where the seller does not know and has no reason to make further inquiry to determine that such application was made by the supplier or acted upon by the agency, enforcement exception granted as to all such sales by seller insofar as seller's price was legal but for the order. On all merchandise remaining unsold seller must reprice in accordance with order.

Coverage. All regulations in all commodity fields at all applicable industry levels.

Washington, D. C., March 29, 1946.

(7) *Case No. 7: Enforcement exception granted—C-3.*

Facts. On November 9, President Truman announced that ceiling prices on all commodities except rent and sugar and a few minor commodities were lifted. The October 31, 1946 statistical reports show that there were 2,707 Administrator's claims and 2,211 Administrator's Consumer claims pending in court, 11,002 cases completed investigations awaiting disposition, and 4,184 cases under investigation. Our personnel has been substantially cut except for rent, sugar and sales control enforcement. A number of the courts have been reluctant to go forward with cases involving small amounts of overcharge.

Decision. The enforcement exception is granted.

Basis. This decision is necessary in order that we may reduce the workload of our staff and to relieve it of the less significant cases. Also, by making this decision we are eliminating the number of small cases from the court dockets thus enabling our attorneys to proceed with the more significant cases.

Rule. All treble damage claims involving decontrolled commodities in which the single amount of the overcharge is less than $200 shall be dismissed forthwith. This is applicable both to pending litigation and to cases pending disposition. A case should not be dropped where the evidence presently in the file establishes single damages of less than $200, and the file indicates that by further investigation made in accordance with Review and Disposition Directives 4 and 5 single damages in excess of $200 will be developed.

Coverage. All regulations in all commodity fields at all industry levels where the commodities are now decontrolled.

Washington, D. C., December 23, 1946.

(8) *Case No. 8: Enforcement Exception granted—C-4.*

Facts. In some instances we have used both the criminal sanction and the treble damage sanction against a subject for the same violation. In some of these cases the penalty ordered in the criminal case is adequate, and for such reason the OPA Attorney does not desire to proceed with the civil sanction.

Decision. It is within the discretion of the attorney handling the case as to whether or not he will proceed with the treble damage sanction where an adequate sentence has been obtained in the criminal case.

Basis. Very often both the criminal sanction and the treble damage suit were filed against the subject in violation because it was thought that the fine in the criminal case might be inadequate. For example, an automobile dealer may sell automobiles over ceiling and collect $200,000 in overcharges; whereas, the fine might be only $1,500. In such cases the treble damage suit is needed. However, if the fine exceeds the amount of the overcharges, or an adequate jail sentence is issued, there may be no need to proceed with the treble damage case.

Rule. Where both a treble damage action and a criminal prosecution have been instituted for the same violation, and the criminal prosecution has resulted in an adequate penalty the treble damage action may be dismissed. In making such determination full consideration should be given to the original reason for invoking both civil and criminal proceedings. This determination is within the discretion of the attorney handling the case.

Coverage. All regulations in all commodity fields at all industry levels including rent.

Washington, D. C., December 23, 1946.

(9) *Case No. 9: Enforcement exception granted—C-5.*

Facts. Occasionally we have a treble damage case pending which rests solely on the testimony of a witness whose credibility has been impaired by his prior criminal conviction for a felony.

Decision. Enforcement exception is granted.

Basis. While it is recognized that in some instances the only way that we can get evidence of the crime is from people whose credibility is questionable, it is not wise to proceed in court with a treble damage case where the only testimony that we have is that of a person whose testimony is not reliable. However, there may be other facts in the case which substantiate the testimony of such person and for such reason the Enforcement Executive is willing to have the case proceed to trial.

Rule. Any case where the claim for treble damages rests solely on the testimony of a witness whose credibility has been impaired by prior criminal conviction of a felony may be dismissed but only by the Regional Enforcement Executive in the proper exercise of his discretion.

Coverage. All regulations in all commodity fields at all applicable levels including rent.

Washington, D. C., December 23, 1946.

(10) *Case No. 10: Enforcement Exception granted—C-6.*

Facts. A number of the price regulations contained provisions commonly known as penalty pricing provisions. These provisions varied by commodity and by regulation. For example, in MPR 540 there were two prices

for used cars, the "as is" price and the "warranted" price. The latter could be obtained by a dealer if he met certain qualifications and obtained from the Office of Price Administration authority to sell at market prices.

In many instances the subject could have sold at the higher price had he complied with the procedure set forth in the regulations, but because of his failure to do so was in violation and subject to treble damage claim.

Another common example is the instance where the subject applied for an increase in price, later obtained such increase, but sold at the higher price before obtaining such increase.

Decision. Enforcement exception is granted.

Basis. In a going price control program it is absolutely necessary to have penalty pricing provisions in the regulation and to hold the seller to the price he is entitled to receive at the time the sale is made even though he may later receive authorization to sell at a higher price. However, after a commodity has been decontrolled the reasons for the penalty pricing provisions no longer exists.

Rule (A) Where a regulation provides a higher maximum price for a seller who has filed a report, pricing chart, amended pricing chart or similar document than for a seller who failed to file, any treble damage action based upon sales at a higher price than that provided for a non-filing seller shall be dismissed: *Provided, however* The seller can clearly prove that had he fully complied with the filing requirement he would have been entitled to charge the price actually charged in each and every sale involved. This exception shall apply only to those cases in which under the applicable regulation, filings were accepted by the OPA without any verification whatsoever and where the only action (e. g. acknowledgment) required of the OPA by the regulation was entirely automatic and required neither a determination of fact nor an exercise of discretion by OPA.

(B) Where a regulation which establishes a basic maximum price provides that upon application by a seller the right to charge a higher price may be granted, and where after the earliest permissible date for such application, the seller, without having been granted the higher price, charged a price higher than the basic maximum price permitted but later was granted a maximum price equal to or higher than the price he charged theretofore. Any treble damage action based upon such sales shall be dismissed if the seller can clearly prove that had he filed a timely application he would have been entitled to charge the price he did charge at the time of the sales in each and every sale involved in such case.

(C) Where a regulation providing dollar-and-cent maximum prices has been amended and either the amendment or statement of considerations expressly states that the purpose of the amendment is to correct an error previously made in fixing a maximum price, any treble damage action based upon sales made between the issuance of the earlier price and the amendment at a price not higher than the corrected maximum price shall be dismissed.

(D) Where a seller of used commodities who is authorized to charge a higher price for a commodity if he gives a written warranty sells the commodity at the warranty price but gives only an oral warranty whose terms are substantively identical with the terms required to be given in the written warranty and in fact lives up to the terms of the oral warranty, any case based upon sales at not more than the warranty price shall be dismissed.

(E) In any case included in the exceptions above, if the seller charged more than the higher price referred to on any of the sales in question, the exception does not apply in any or for any purpose, and the applicable maximum price shall be that actually provided by the regulation. However, in any case in which the seller sold at or below the higher price on all sales except an insignificant number, the case may be recommended to the National Director of the Review and Disposition Division for authority to dismiss.

Example: If under (B) above a seller's basic maximum price was $4, but the seller made sales at $5 and $5.50, and was later granted a price of $5 (which he can show he would have been entitled to at the time of the sales had he made timely application) the exception shall not be applicable; i. e., the case shall not be dismissed as to any of the sales and the applicable maximum price for all sales shall be $4, which amount shall be used in determining overcharges.

(F) In each exception above where the seller is required clearly to prove certain facts, he shall have the burden of bringing forward any facts not already in the file. Affidavits by the seller and/or his purchaser, unsupported by records or other competent evidence, shall not be considered sufficient to prove clearly the facts which must be established. No evidence presented by a seller shall be considered as proof unless it is easily verifiable by the OPA and no suit shall be dismissed unless the facts have been so verified. No recommendation to dismiss a case shall be made and no case shall be dismissed unless the person considering the case has no doubt that the requisite facts have been established.

(G) Where a regulation provides that the maximum price for any commodity not properly described in the invoice shall be the price applicable to such incomplete description, any case based upon sales a price higher than that applicable to the incomplete description shall be dismissed, if the seller can clearly prove that had he issued a proper invoice he would have been entitled to charge the price he did charge in each and every sale involved in such case.

Coverage. All regulations in all commodity fields of decontrolled commodities at all applicable industry levels.

Washington, D. C., December 23, 1946.

(11) *Case No. 11. Enforcement exception denied.*

Facts. Since 1935, subject has been engaged in the business of selling meat, primarily to hotels and restaurants. Under the provisions of RMPR 169 a seller who comes within the definition of a "hotel supply house" may sell fabricated meat cuts at a higher price than that which he would otherwise be permitted to charge. An establishment cannot qualify as a "hotel supply house" unless it sold or delivered to purveyors of meals during the period of September 15, 1942 to December 15, 1942, not less than 70 percent of the total volume by weight of all meats sold or delivered by it, excluding sales to war procurement agencies. Subject, on February 23, 1944, filed a statement with the regional office of OPA, as required by RMPR 169, showing its sales to all buyers and to purveyors of meals during the base period mentioned above. On the face of this statement it appears that subject does not qualify as a "hotel supply house." Nevertheless, subject continued to sell meat at the higher prices applicable to "hotel supply houses," as a result of which suit for damages was brought against it by the Administrator after investigation and several conferences with representatives of subject company. Subject contends that its base period operations were abnormal and that at all other times more than 70 percent of its sales have been to purveyors of meals.

Decision. Enforcement exception is denied.

Basis. It is not the function of an enforcement exception to adjudicate the reasonableness of the provisions of a price regulation. Adequate administrative and judicial machinery is available for that purpose and should have been used by subject if it claimed that the regulation, or interpretation thereof, under which it failed to qualify as a "hotel supply house," was arbitrary or capricious.

Of course, it is possible that a reasonable regulation might work a hardship in a particular case because of unusual circumstances. Even if such hardship exists in the present case, however, it is felt that the enforcement exception cannot be granted without doing serious damage to the base period technique—a technique which produces more equitable results than other possible methods. By its very nature, it must be applied rigidly in order to be equitable. It would not be administratively feasible to determine whether enforcement exceptions should be granted in each case in which a person's base period operations deviated from the normal. If such a task were undertaken, the inevitable result would be the substitution of a vague standard for a precise and workable one.

The fact that this agency had notice of subject's violations as a result of its statement filed February 23, 1944, and as a result of subsequent conferences and investigations, did not place upon it any obligation to institute immediate action against subject. To hold otherwise would in effect create a new type of self-imposed statute of limitations, running from the date notice of an offense is received, calling for the imposition of sanctions within a short but undefined period of time and needlessly hampering the enforcement program.

The claim is made that if present enforcement action is pressed to a conclusion, normal channels of meat distribution will be seriously disrupted. No decision need be made at this time as to whether such disruption would be a valid basis for an enforcement exception. Assuming that it would be, we note that no specific data are presented to support subject's claim, nor does it appear likely, on the basis of the known facts, that a sufficiently serious maldistribution could be established to furnish a compelling argument in favor of granting an enforcement exception.

Washington, D. C., December 27, 1946.

(12) *Case No. 12: Enforcement exception granted—C-7*

Facts. An investigation of a mill in Idaho disclosed violations by 24 farmers in the sale of clover seed to this mill. The farmers received the quality cleaned price although the seed was actually sold in the dirt and cleaned by the mill, but no deduction was made for cleaning. A treble damage action is pending against each of the 24 farmers and all of the defendants are represented by the same counsel. In 22 of the cases the single amount of the overcharge varies between $3.02 and $54.74. Enforcement Exception Case Number 7 applies to all of the cases involving less than $200. The single amount of the overcharges in each of the other two cases is $202.19 and $381.25. The OPA attorney has requested permission to dismiss these two cases.

Decision. The enforcement exception is granted.

Basis. It is recognized that the monetary cut-off provided by Enforcement Exception Case Number 7 when applied to a group of cases developed in a local area as a result of a single investigation may present a situation such as this one in which it would be discriminatory to dismiss a substantial number of cases and proceed in an insignificant number of similar small cases.

Rule. No general rule announced by this enforcement exception. The factual situation in other instances will necessarily be different and will require an application for an exception.

Coverage. This exception is limited to the specific factual situation set forth.

Washington, D. C., December 31, 1946.

(13) *Case No. 13: Enforcement exception denied.*

Facts. A manufacturer of handbags filed a base period report under Section 1.2 (c) of SR 14 E which filing indicated a highest price line of $75 per dozen for category 4. SR 14 E contained no provision by which a seller with base period experience could apply to OPA and secure a highest price line limitation in excess of that accorded by its own base period experience. (Ceiling prices of handbags are regulated by GMPR and the highest price line limits only established by SR 14 E.) Thereafter, the manufacturer had his lawyer contact OPA to secure approval of a price of $108 per dozen for a new style in Category 4. Although fully aware of the manufacturer's base period experience, the attorney employed by the law firm did not impart this fact to OPA. The attorney returned from OPA and stated that it was merely necessary to establish the price by competition. The attorney could not later identify the OPA employee he spoke with, and there is no way at present to determine whether such advice was given by OPA. When enforcement investigation disclosed the violation, the manufacturer discontinued sales at $108 and the attorney that contacted OPA was discharged by his law firm. The manufacturer made practically no profit on the violative sales, profits averaging less than $1 a dozen. The handbags were worth the price charged, and except for the highest price line limitations of SR 14 E, the price charged would have been the proper GMPR ceiling, on the basis of competitive pricing. It is urged on behalf of the manufacturer that the price charged was thus not inflationary.

Decision. Enforcement exception denied.

Basis. At best, the facts outlined indicate only good faith on the part of the manufacturer. Even assuming that such OPA advice was given, since it would have been on an erroneous statement of facts, it does not constitute a defense to a violation. The basis set forth in denying an enforcement exception in Case No. 4 is fully applicable here. Furthermore, the contention that these sales were not inflationary is unrealistic. The most vicious inflation which occurred in the apparel and textile field was "up-trading"—i. e., abandoning low-priced lines in favor of producing high-priced lines. This resulted in a drastic lifting of the entire price level, as low- and medium-income consumers unable to find their customary low-priced lines in the market, were forced to purchase in price lines at the "luxury-class" level. Even though these higher priced articles represented full value to purchasers accustomed to buy in such higher priced lines, they were definitely inflationary and a very real and serious threat to the price structure as to low- and medium-income purchasers. To curb this up-trading, and to hold manufacturers at least to the highest lines they sold in normal times, the agency adopted highest price line limitations in all important apparel fields and later implemented them further by the "maximum average price" regulations (MAP) in an attempt to bring back into production the full normal range of price lines, including the lowest. The argument that full value was delivered in the violative sales does not, therefore, support the conclusion that the sales were not inflationary.

We have never measured the desirability or propriety of enforcement action in terms of the profit derived from violations, so that it is immaterial in this instance that the manufacturer enjoyed a negligible profit.

Washington, D. C., February 10, 1947.

(14) *Case No. 14: Enforcement exception granted—C-8.*

Facts. The used motor vehicle regulation, RMPR 341, MPR 540, and MPR 569, provided dollars-and-cents prices for used vehicles. These prices, called "as is" or base prices, were the maximum which any person selling a vehicle could charge. A person regularly engaged in the business of selling used vehicles could charge the warranty price which is $100 or 25 percent more than the "as is" price, if he applied for and obtained written authorization from the district office to sell as a "dealer" as that term is defined in the regulation. Before issuing the authorization the district office price division generally verified that the applicant had a place for the display and sale of used vehicles, and facilities for the repair and reconditioning necessary to put and keep vehicles in good operating condition.

Situation A. A truck concern applied for authorization and pending issuance of such authorization sold a truck at the warranty price. The authorization was never issued and enforcement instituted a treble damage action based upon the difference between the "as is" and the warranty price. The district office price division has advised the enforcement division that the seller had the facilities necessary to qualify as a "dealer" and that the authorization was not issued because the application had apparently been misplaced in the district office.

Situation B. A seller has been engaged in the business of selling used cars and trucks. He applied for and received authorization as a used car "dealer." Subsequent investigation disclosed that he had sold trucks at the warranty price although not specifically authorized as a truck "dealer." The overcharge is the difference between the "as is" and warranty prices. The subject has facilities adequate for the repair and reconditioning of used cars and trucks.

Situation C. A seller regularly engaged in the business of selling used vehicles sold such vehicles at the warranty price although he never applied for nor received written authorization to sell as a "dealer." The overcharge is the difference between the "as is" and the warranty prices. Subject has always maintained facilities for the repair and reconditioning of vehicles, has given purchasers the written warranty required by the regulations, and has performed the services necessary to meet the terms of the warranty.

Decision. Enforcement exception is granted.

Basis. In a going price control program it is absolutely necessary to hold the seller to the price he was entitled to receive at the time the sale was made even though he could have received authorization to charge the higher price had he properly applied for such authorization. However, after a commodity has been decontrolled the reasons for holding the seller to the lower price no longer exist if he can satisfactorily prove that he could have qualified for the authorization which would permit the higher price to be charged.

Rule. Where a seller of used motor vehicles establishes to the satisfaction of the chief of the regional review and disposition section, the regional enforcement executive and the regional administrator that he would clearly have been entitled to an authorization as a dealer if he had made application therefor or having made such application if the same had been properly acted upon, any case based upon sales at not more than the price he would have been entitled to charge as a dealer shall be dismissed.

Coverage. RMPR 341, MPR 540, and MPR 569.

Washington, D. C., February 21, 1947.

(15) *Case Number 15: Enforcement exception granted—C-9.*

Facts. The Electric Household Utilities Corporation of Chicago is a manufacturer of the Thor Washing Machine and Ironer. A treble damage action is now pending against this company for sales made during the months of June, July, and August 1945. The complaint was filed on August 23, 1945. There was no provision made in RPS 28 for adjustable pricing. During the war the company had contracts with the Government for manufacturing washing machines. As a result when the war ended it was in a position to immediately convert its factory into making civilian products. It was ready to go on the market with its products about four months earlier than other manufacturers of washing machines and ironers.

As early as April and May 1945, the industry began negotiating with the price department of the Office of Price Administration for an industry-wide adjustment. There were numerous conferences with representatives of the washing machine industry and cost surveys made by the price department. Prior to October 1, 1945, no over-all price increase had been issued by the price department.

In June and July the company delivered its washing machines and ironers to its distributors on a consignment basis. No sales were made. The same procedure was followed up to August 4, 1945, at which time the company contended that its warehouses as well as the warehouses of its distributors were full and that it was impossible to further finance its operations without making sales. On or about August 4, 1945 the defendant transmitted to all of its dealers and distributors a communication dated August 4, 1945, the pertinent and relevant portions of which read as follows:

"We have shipped you a quantity of Wringer Washers and Gladirons. * * *

"We consigned this merchandise to you because at the time of shipment we believed our prices would be approved by OPA within a few days. To date no price has been established and, we have no idea how long it will be before a price is set.

"We know you are anxious to ship machines to your dealers. To enable us to release these machines to you and at the same time keep our working capital at the point where we need it for our rapidly expanding perduction program, we have worked out the following plan.

"We are billing you for your machines at prices which are subject to final approval or change by OPA. We see no reason why you in turn might not ship and bill your dealers on the same basis and the dealers take orders from the public subject to the same terms. * * *

"Your invoice will have a stamp which will read:

"'Notice.—Prices on this invoice are subject to final approval or change by OPA. When final prices are established, we will issue a credit memo if the price is lower, or bill you an additional amount if the price is higher.'

"When you receive your invoice you will note that our terms are stated as 'Net on Receipt of Invoice.' We ask that you adhere rigidly to these terms. * * *

"On the basis of the price list we see no reason why you cannot use the same method of billing your dealers. We have prepared stamps as shown and are sending one to you.

"Your dealers might take orders for future delivery by telling their customers that the list price on the machine will be about as shown on the above price list subject to OPA approval. He should make sure that it is clear to the buyer that this price is not

definite and he will adjust his contract to the finally established price when it is set by OPA." About the middle of August the Office of Price Administration began investigating the company, and on August 24, the defendant addressed a telegram to all of its distributors reading as follows: "Hold billings on washers and ironers to dealers, letter follows."

On or about August 29, 1945, the company mailed a letter to all of its distributors and branches informing them that no billing would be made and that washers and ironers would be sent to them on a consignment basis only. Between August 4, 1945, and August 29, 1945, the company delivered, billed, and collected payment on washers and ironers, at a price in excess of its then ceiling price as well as in excess of the amount subsequently allowed by industry-wide adjustment of October 1, 1945.

On September 10, the Administrator for OPA sent the leading manufacturers of washing machines, including the company, a telegram which reads as follows:

"We have your request for permission to make deliveries of washing machines on an adjustable billing basis. We expect to promptly issue an order which will provide that manufacturers of reconversion goods may make deliveries and collect an amount no higher than the ceiling price at the time of delivery, and provide with the purchaser that he is to pay any additional amount which OPA may later allow either by way of general increase factor for the industry or by an adjustment for the particular manufacturer. Arrangements under which the seller collects a price higher than the ceiling at the time of delivery subject to a later refund will be prohibited. Pending the issuance of such an order, you are authorized to make deliveries on this basis. Forthcoming amendment to regulation will require you to furnish tags showing retail ceiling price to all distributors and dealers to whom you now ship."

In November 1945 the company by cash payments or credit allowed on accounts owed to it returned to its dealers and distributors the difference between (a) the amounts received from or charged to said dealers and distributors on account of purchases of models of washers and ironers sold by company between June 1, 1945, and September 28, 1945, and (b) the aggregate amount of the prices for said washers and ironers computed on the basis of the highest prices quoted in company's price list effective during the period October 1, 1941, to October 15, 1941. The aggregate amount returned to all dealers and distributors was as follows:

To dealers	$19,531.50
To distributors	49,476.56
Total	69,005.06

On October 1, 1945 the Office of Price Administration granted an industry-wide increase of 7.7 percent. A larger increase was later granted.

Decision. Enforcement exception granted.

Basis. At the time this case was filed, it was considered extremely important for it was at the beginning of the reconversion period. While the agency was slow in establishing an industry-wide mark-up for the washing machine industry as well as some of the other reconversion industries, it could not administer a program if the individual business establishments took their own increases. Adjustable pricing was permitted under section 19a of the General Maximum Price Regulation and was authorized for this industry by the Administrator's telegram of September 10, 1945. However, such adjustable pricing provisions contained the requirement that, pending action on the application for adjustment, the seller could not collect an amount greater than the ceiling price at time of delivery, and that, if the adjustments were granted, he could thereafter bill and collect from the buyer, on all sales made after the authorization to apply adjustable pricing, the amount of the adjustment.

The company's violation was twofold: (a) it applied adjustable pricing when not authorized to do so and (b) it actually collected amounts in excess of ceiling price at time of delivery.

In a continuing program it is essential that violations of this character be promptly stopped and appropriate action taken to prevent further violation and overcharge. However, in this case the seller ceased violations shortly after being advised of the agency's position and promptly made refunds, by cash or credit memoranda, to all purchasers of the difference between the amount collected or billed and its ceiling price at date of delivery. It is also true that had the agency authorized adjustable pricing (as contained in the telegram of September 10, 1945) prior to August 4, 1945, there would have been no violation.

Enforcement Exception Case No. 10 covered certain types of penalty pricing cases. While that exception is not applicable here (because there was no provision for adjustable pricing in the applicable regulation at the time deliveries were made), the basic reasons for that exception are here relevant.

Rule. Where a member of a reconverting industry makes deliveries on adjustable billing at a time when industry applications for general price increases are pending, and collects an amount in excess of his ceiling price at the date of such deliveries, enforcement exception is granted as to such deliveries even though no provision for adjustable billing is contained in the applicable regulation provided:

(1) Such sales are stopped when the violation is called to the seller's attention. And

(2) Refunds, in case or by credit memoranda, are given all buyers, within a reasonable time. And

(3) The amount of such refund is the difference between the price charged (or collected) and the seller's ceiling price on the date of delivery.

This rule applies to all subsequent sellers to the extent that any violations by them are directly attributable to the transactions of the member of the reconverting industry for which this exception is granted.

Washington, D. C., February 20, 1947.

(16) *Case No. 16: Enforcement exception granted—C–10.*

Facts. No request for an enforcement exception has been made in this case. However, the deputy commissioner on his own motion has considered an exception.

No court action has been taken. However, an investigation has been made and an action would be filed in accordance with agency policy and procedures if no exception is granted.

The claim is against A. C. Wells et al., d/b/a J. W. Wells Lumber Company, Menominee, Michigan, hereinafter referred to as the company.

The company operates a hardwood floor mill in the upper peninsula in Michigan, the producing area of hardwood lumber. It purchased hardwood lumber and hardwood logs and made them into hardwood flooring which it sold primarily at ceiling prices established for mill sellers of hardwood flooring by MPR 432. The company screened the best hardwood lumber amounting to about 10 percent of all the hardwood lumber it purchased, dried this lumber and resold it, as lumber, in carload quantities. Also it had been selling hardwood flooring in small quantities near its mill at what it called retail prices. Sometime in August 1945 James A. MacDonald, price specialist in the lumber unit in the Escanaba District Office, called upon A. C. Wells at the company's place of business. It appears that the company had been selling all of its lumber at the ceiling price for mill sellers as provided for in MPR 223, and all of its hardwood flooring, including a small lot of so-called retail sales at the mill ceiling price established by MPR 432. The company requested an interpretation of MPR 467 and MPR 215 from the Escanaba District Office inquiring whether it could take the mark-ups provided in those regulations (MPR 215 provides a mark-up for retail sellers of hardwood flooring out of a distribution yard stop; MPR 467 provides for mark-ups of mill prices on sales of hardwood lumber by distribution yards). Because of the wording of the applicable regulations, it was not unreasonable for the seller in good faith to request an interpretation whether he was entitled to these mark-ups. Mr. MacDonald told the company orally that, based upon the regulations and upon the operation being performed by the company and its past performance prior to the war, it was qualified to use the mark-ups contained in MPR 467 and MPR 215. The company requested that this interpretation be given to it in writing. On August 13, 1945 the Escanaba District Office wrote the company authorizing it to take such mark-ups. The letter was signed by James A. MacDonald, Price Specialist, Industrial Commodities.

There was no price attorney in the Escanaba Office in August 1945. Mr. MacDonald states that he orally discussed this with the regional price attorney in Cleveland and the regional price specialist in Cleveland. This discussion occurred after August 13, 1945. The price specialist was told that the interpretation set forth in the August 13, 1945, letter was correct.

On September 1, 1945, the company raised its prices in accordance with the interpretation set forth in the August 13, 1945 letter. In August 1946, the company was investigated by enforcement. It was then determined that the interpretation set forth in the August 13 letter was erroneous. The overcharges from September 1, 1945, through August 1, 1946, totaled $12,840.00.

Decision. Exception granted.

Basis. Enforcement Exception Case No. 4 denies an exception where an oral authorization was made by the Office of Price Administration in violation of Procedural Regulation No. 1. That decision is reaffirmed.

The provisions of Procedural Regulation No. 1 are sound and are necessary for the administration of any government activity. The 1946 amendments to the Emergency Price Control Act recognized this principle in that Congress provided that no action could be maintained if the violation arose because the person selling the commodity acted upon and in accordance with the written advice and instructions of the Administrator or any regional administrator or district director of the Office of Price Adminstration.

The issuance of written interpretations by unauthorized employees of the Office of Price Administration is a violation of internal instructions and can be held to a minimum by proper supervision and corrective measures taken against persons violating such instructions. A serious question arises as to what enforcement action should be taken against a member of an industry who, in good faith, applies to the Office of Price Administration for an interpretation, receives a written interpretation from a person with apparent authority and relies upon this interpretation to the end that he, by

doing so, is in violation of an Office of Price Administration regulation.

Where no element of fraud and collusion are present and the enforcement attorney is satisfied that there was need for the interpretation and a price specialist, although unauthorized, issues one, which was in good faith relied upon, no prosecution should be instituted against the person receiving such interpretation if it later develops that such interpretation is erroneous.

Rule. Where a person applies to an office of the Office of Price Administration for an interpretation of a regulation and receives an interpretation in writing from a person in that office who has been designated as the price specialist for the commodity or commodities involved in the interpretation, and the person applying for the interpretation has no actual knowledge of the fact that such price specialist does not have authority to issue the interpretation, enforcement exception is granted the person receiving that interpretation, with respect to those violations which occurred solely as the result of such interpretation, provided that all the following conditions are met:

1. The person applying for the interpretation correctly stated all relevant facts.
2. The matters contained in the written interpretation were a proper subject for interpretation.
3. The applicable regulation or regulations did not state a rule clearly contrary to such interpretation.
4. There was no element of fraud or collusion on the part of or between the price specialist and the person seeking the interpretation.
5. That the person applied for and relied upon the interpretation in good faith.

Washington, D. C., February 20, 1947.

(17) *Case No. 17 Enforcement exception granted—C–11.*

Facts. Section 5 (e) of 2d Rev. MPR 19 with respect to certain shipments of Southern Pine lumber invoiced as containing in excess of designated percentages of certain grades, established the No. 2 Common price as the applicable maximum price for lumber invoiced as No. 1 Common and higher grades if any such shipment did not bear the grademark of a qualified inspection agency or was not accompanied by a certificate of inspection by a proper inspection agency. Some producers of Southern Pine lumber who were not members of a qualified inspection agency, and for that reason were unable to comply with the grademarking provision of the section, made shipments which were invoiced as containing quantities of the higher grades in excess of those set forth in the section and such shipments were not accompanied by a certificate of inspection by a recognized inspection agency. However, these producers had in their employ inspectors capable of properly grading Southern Pine lumber in accordance with the recognized rules of the industry. These shipments were actually graded by such graders in accordance with industry rules and practices and the invoices for these shipments accurately reflected the quantities and grades of lumber determined by the graders.

Decision. Enforcement exception is granted.

Basis. Section 5 (e) was incorporated in the regulation to combat widespread violation by upgrading of lumber. A study of Southern Pine Grade Distribution for the year 1941 was made by the Southern Pine War Committee, an industry organization. This study disclosed that the normal log out-turn of No. 1 Common and higher grades in the production of Southern Pine lumber varies in different geographic areas from a low of 5% to a high of 30%. The results of this study were taken into consideration in establishing the various percentages set forth in the section. In the early part of 1946, because of an aggravated general violative condition existing in the lumber industry, our lumber enforcement activity was considerably increased. One of the most prevalent forms of violation in Southern Pine lumber was upgrading. Because of the extensive upgrading practices and the fact that the government had only limited facilities available for detecting such upgrading, the Agency placed heavy reliance on section 5 (e) and took extensive enforcement action based upon violations of that section. Since decontrol the considerations expressed generally in Enforcement Exception No. 10, and particularly as illustrated by parts A, B, D, and G, apply with equal validity to the considerations disclosed by the above facts. However, since none of the situations stated in Enforcement Exception No. 10 is applicable to this express situation, it is necessary to issue a separate enforcement exception to cover violations of 5 (e) of 2d Rev. MPR 19.

Rule. Any case where the claim for treble damages is based upon violations of Section 5 (e) of 2d Rev. MPR 19 shall be dismissed if all of the following conditions are met:

1. The shipments involved in the case were actually graded by employees of the shipper qualified to and capable of properly grading Southern Pine lumber in accordance with the recognized rules of the industry.
2. The invoices for such shipments accurately reflected the quantities and grades of lumber as determined by such grading and there was no upgrading of any of the lumber involved in any such shipments.

The term "upgrading" as used in this exception means any misrepresentation or misdescription as to the grade or quantity of any item of lumber where such misdescription resulted in a higher price than the applicable legal ceiling.

This exception is expressly limited to violations of section (5) (e) of 2d Rev MPR 19.

Washington, D. C., March 13, 1947.

(18) *Case No. 18: Enforcement exception granted—C–12.*

Facts. Enforcement Exception No. C-3 (Case No. 7), issued December 23, 1946, provided: "All treble damage claims involving decontrolled commodities in which the single amount of the overcharge is less than $200 shall be dismissed forthwith." The question has been raised as to whether that exception applies, or should be extended, to cover installment payment settlement agreements (not reduced to judgment) where the balance remaining unpaid on December 23, 1946, was less than $200. Two situations are presented, one where the settlement was originally in excess of a sum of $200.00 and was reduced by partial payments to less than $200.00, the other where the original settlement was for a sum less than $200.00.

Decision. Enforcement exception granted as to both situations.

Basis. The same considerations which led to the adoption of Enforcement Exception No. C-3 are here applicable. From the point of view of the workload involved in processing those cases where the balance remaining unpaid on December 23, 1946, was less than $200.00, it is immaterial whether the original settlement was for more or less than $200.00. However, with respect to installment payment settlement, where the balance due on December 23, 1946, was more than $200 and installment payment settlements entered into after that date, where the total amount of the settlement exceeds $200.00, the Agency must undertake the workload involved, both in effecting the initial settlement and in collecting the full amount of the settlement even though eventually the final installment or installments may be less than $200.00.

Rule. Any case in which (i) a settlement had been effected and payment was to be made by installments, and (ii) the claim had not been reduced to judgment, and (iii) the amount remaining unpaid on December 23, 1946 was less than $200.00, shall be closed and no further proceedings taken to effect collection of the balance due under the installment payment settlement.

Coverage. All regulations in all commodity fields at all industry levels where the commodities are now decontrolled.

Washington, D. C., March 27th, 1947.

(19) *Case No. 20: Enforcement exception granted C–14.*

Facts. A landlord rented a dwelling unit for $10 a week. Thereafter the landlord filed a registration for this amount; the said registration was filed late. The Area Rent Director issued an order reducing the rent from $10 a week to $7 a week, retroactive to the date of the first rental. The landlord protested this order to the Area Rent Director, but presented no further facts on this protest other than those facts originally presented when the retroactive order was issued. Subsequent to this protest, the Area Rent Director modified his original order and increased the rent to $9 per week. This last order was not retroactive nor could it have been retroactive under the provisions of Revised Procedural Regulation 3.

Decision. Enforcement exception is granted.

Basis. Since no new facts were presented when the protest was lodged, and since there was no physical change in the property between the time of the original and the modifying orders, it would appear that the only reason for the increase in the maximum legal rent was that the original order fixing that rental was the result of error made upon inspection, computation, or judgment.

Rule. Where a retroactive order is issued by an Area Rent Director reducing the maximum legal rent from that charged by the landlord and said order is subsequently modified increasing the maximum legal rent either following a protest to the Area Rent Director or as a result of an appeal to the Regional Administrator, and where no new facts are presented when the protest is lodged and there is no physical change in the property between the time of the original order and the time of the modifying order, for the purposes of enforcement the original order shall be disregarded, and the overcharges upon which a treble damage action shall be predicated shall be the difference between the rent charged by the landlord and the amount set forth in the modifying order.

Washington, D. C., March 8, 1947.

Dated: March 31, 1947.

PHILIP B. FLEMING,
Temporary Controls Administrator.

[F. R. Doc. 47-4249; Filed, May 1, 1947; 11:37 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 971]

[Docket No. AO-175-A3]

HANDLING OF MILK IN DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR, Cum. Supp. 900.1 et seq., 10 F. R. 11791, 11 F R. 7737, 12 F R. 1159) notice is hereby given of a public hearing to be held at the Miami Hotel, Dayton, Ohio, beginning at 9:30 a m., e. s. t., May 7, 1947, with respect to the proposed amendments to the tentatively approved marketing agreement and the order, as amended, regulating the handling of milk in the Dayton-Springfield milk marketing area (10 F. R. 6167; 11 F R. 6901, 11 F. R. 9423) These proposed amendments have not received the approval of the Secretary of Agriculture.

Such public hearing is for the purpose of receiving evidence with respect to economic or marketing conditions relating to the proposed amendments, which are hereinafter set forth, and appropriate modifications thereof.

The following amendments have been proposed:

By Dayton handlers:

1. Delete § 971.1 (c) and substitute therefor the following:

(c) (1) Dayton marketing area means the cities of Dayton and Oakwood; the townships of Miami, Jefferson, Madison, Van Buren, Harrison, Butler, Mad River and Washington, all in the State of Ohio.

(2) Springfield marketing area means the City of Springfield and German Township in Clark County in the State of Ohio.

By Dayton-Springfield handlers:

2. Amend § 971.2 (c) (7) by deleting "10th" and substituting therefor "12th."

By Dayton-Springfield handlers:

3. Amend § 971.3 (a) by deleting "5th" and substituting therefor "7th."

4. Amend § 971.3 (b) (3) by deleting "20th" and substituting therefor "22nd."

By Dayton-Springfield handlers:

5. Amend § 971.4 (b) (2) (iii) by deleting the words "cottage cheese."

6. Amend § 971.4 (b) (3) (i) by inserting the words "cottage cheese" after the words "condensed skim milk."

7. Amend § 971.4 (b) (3) (iii) by adding after the word "handlers" the following: *"Provided,* That plant weighing in direct shipper loads of milk from another handler shall take such receipts into its calculations in determining the maximum 2½ percent plant shrinkage; and *Provided further* That emergency milk received by any handler shall be included in determining plant shrinkage."

8. Amend § 971.4 (d) (1) (iii) and § 971.4 (d) (2) (iii) by deleting "5th" and substituting therefor "7th."

9. Delete § 971.4 (e) (10) and substituting therefor the following:

(10) Determine the classification of milk received from producers and associations of producers by (i) Subtracting, respectively, from the total pounds of skim milk and butterfat in each class, the pounds of skim milk and butterfat received from handlers other than those described in (ii) and used in each class; (ii) subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in series beginning with Class III milk, the pounds of skim milk and butterfat received from any handler who received no milk from producers or from associations of producers other than such handlers' own farm production; (iii) subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in series beginning with Class III milk, the pounds of skim milk and butterfat received from sources other than producers, associations of producers, or handlers, which is not emergency milk; (iv) subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in series beginning with Class III milk, the pounds of skim milk and butterfat in emergency milk; (v) subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in series beginning with Class III milk, the pounds of skim milk and butterfat by which the total pounds, respectively, in all classes exceed the pounds of milk received from producers and associations of producers.

By Miami Valley Cooperative Milk Producers Ass'n..

10. Add to § 971.4 (d) (1) (iii) and to § 971.4 (a) (2) (iii) the following: *"Provided further* That skim milk and butterfat so disposed of in the form of milk or skim milk to a plant located 90 miles or more from the selling handler's plant by the shortest highway distance as determined by the market administrator, shall be Class I milk, and skim milk and butterfat so disposed of in the form of cream shall be Class II milk, except during the months of May and June."

By Miami Valley Cooperative Milk Producers Ass'n..

11. Add as subparagraph (4) of § 971.5 (a) the following:

(4) The average of the basic (or field) prices ascertained to have been paid for milk or 3.5 percent butterfat content received during the month at the following places for which prices are reported to the market administrator by the companies listed below or by the Department of Agriculture:

Companies and Location

Producers' Creamery & Cold Storage Co., Celina, Ohio.
Nestle's Milk Products Co., Inc., Greenville, Ohio.
Carnation Co., Hillsboro, Ohio.
Nestle's Milk Products Co., Inc., (uninspected price), Marysville, Ohio.
Red "73" Creamery, Union City, Ind.
Westerville Creamery Co., Covington, Ohio.
Pet Milk Co., Coldwater, Ohio.

By Dayton-Springfield handlers:

12. Add as subparagraph (4) of § 971.5 (a) the following:

(4) The average of the basic (or field) prices ascertained to have been paid for milk of 3.5 percent butterfat content received during the month at the following places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Company and Location

Westerville Creamery Co., Covington, Ohio.
Nestle's Milk Products Co., Inc., Greenville, Ohio.
Producers Creamery & Cold Storage Co., Celina, Ohio.
Carnation Co., Hillsboro, Ohio.
Nestle's Milk Products Co., Inc. (uninspected price), Marysville, Ohio.
Red "73" Creamery Co., Union City, Ohio.
Pet Milk Co., Coldwater, Ohio.

13. Amend § 971.5 (a) by striking therefrom the word "highest" and inserting in lieu thereof the word "average" and also, (if proposed amendment No. 11 or No. 12 is granted) by striking the words "pursuant to subparagraphs (1) (2) or (3) of this paragraph" and inserting in lieu thereof the following: "pursuant to subparagraphs (1), (2), (3) and (4) of this paragraph."

By Miami Valley Cooperative Milk Producers Ass'n..

14. Delete paragraphs (b) and (c) of § 971.5 and substitute therefor the following:

(b) *Class I milk prices.* The price to be paid by each handler f. o. b. his plant for that portion of skim milk or butterfat in milk received from producers and from associations of producers which is classified as Class I milk shall be as follows as computed by the market administrator:

(1) Add to the basic formula price the following amount for the delivery period indicated:

May and June	$0.70
January, October, November, and December	1.10
All others	1.00

(2) The price of butterfat shall be the monthly average price of 92 score butter in the Chicago market multiplied by 1.35.

(3) The price of skim milk shall be computed by (i) multiplying the price for butterfat pursuant to subparagraph (2) of this paragraph by 0.035; (ii) subtracting such amount from the sum obtained in (1) of this paragraph; (iii) dividing

such net amount by 0.965; and (iv) rounding off to the nearest full cent.

(c) *Class II milk price.* The prices to be paid by each handler f. o. b. his plant for that portion of skim milk or butterfat in milk received from producers and associations of producers which is classified as Class II milk shall be as follows as computed by the market administrator:

(1) Add to the basic formula price the following amount for the delivery period indicated:

May and June	$0.40
January, October, November, and December	.80
All others	70

(2) The price of butterfat shall be the monthly average price of 92 score butter in the Chicago market multiplied by 1.3.

(3) The price of skim milk shall be computed by (i) multiplying the price for butterfat pursuant to subparagraph (2) of this paragraph by 0.035; (ii) subtracting such amount from the sum obtained in (1) of this paragraph; (iii) dividing such net amount by 0.965; and (iv) rounding off to the nearest full cent.

By Dayton-Springfield handlers:

15. If proposed amendment No. 14 (submitted by the Miami Valley Cooperative Milk Producers Association) is adopted, then and in that event the handlers propose that it should be modified as follows:

a. By striking out the entire subparagraph (b) (1) and inserting in lieu thereof the following:

(1) Add to the basic formula price the following amount for the delivery period indicated:

May and June	$0.50
January, October, November and December	.90
All others	70

b. By striking out the entire subparagraph (c) (1) and inserting in lieu thereof the following:

(1) Add to the basic formula price the following amount for the delivery period indicated:

May and June	$0.20
January, October, November and December	.60
All others	40

16. Delete § 971.5 (d) (2) and substitute therefor the following:

(2) The price per hundredweight of such butterfat shall be computed by the market administrator by adding to the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during such month a sum to be determined by the following schedule and multiplied by 100: During the month when such average wholesale price is:

80¢ or over, add 20%.
Over 70¢ and under 80¢, add 15%.
Over 60¢ and under 70¢, add 10%.
Over 50¢ and under 60¢, add 5%.
Under 50¢, nothing shall be added.

By Dayton-Springfield handlers:

17. Amend § 971.7 (b) by deleting "10th" and substituting therefor "12th."

18. Amend § 971.7 (e) (2) by deleting "10th" and substituting therefor "12th"

By Dayton handlers:

19. Amend § 971.7 (c) to read as follows:

(c) *Computation of the uniform price.* For each month the market administrator shall compute the Dayton and the Springfield areas separately, with respect to milk received by handlers from producers and from associations of producers, a uniform price per hundredweight by (subparagraphs 1, 2, 3, 4, 5 and 6 thereof to remain as now written.)

20. Amend § 971.7 (e) (2) by adding the words "for each market separately" after the words "uniform price."

By Blossom Hill Dairy, Fairview Dairy, Grocers Co-op. Dairy, Inc., Hildebrand Dairy, Moler's Belmont Dairy, Neal Farms Dairy Products, Royal Crest Guernsey Farm, Shoemake Guernsey Farms, Inc., White Clover Dairy Farms, and McCloskey Bros. Dairy Farms:

21. Delete § 971.7 (c) and such other provisions as provide for a market-wide pool and in lieu thereof provide for an individual handlers pool and make such other changes in said order as may be necessary to make the entire order consistent with this proposal.

By The Ohio Guernsey Breeders' Association, Inc..

22. Amend § 971.7 to provide for one of the three following alternative methods for computing the price to be received by producers for the type of milk indicated:

(1) Milk sold as a special milk including Golden Guernsey, Jersey Creamline, or similar milks on which a special premium for quality is paid over and above the pool price by the handler, shall be set aside in a separate pool calculated and administered by the market administrator. The handler of such milk shall report monthly his total production and sales of special milk and certify to the market administrator the premium paid each month;

(2) In the market wide pool calculations, those handlers paying a premium to producers of special milk shall be charged the same price per pound of butterfat as he is permitted to pay the producer through the regular producer butterfat differential (Class 3), or

(3) The handler paying a premium to producers of special quality milk shall pay his special producers the same butterfat differential as he is charged for Class I butterfat in the pool and be so credited.

By Dayton-Springfield handlers:

23. Amend § 971.8 as follows:

a. In paragraph (a) (1) thereof substitute "17th" for "15th."

b. In paragraph (a) (2) thereof substitute "16th" for "14th."

c. In paragraph (b) (1) thereof substitute "27th" for "25th."

d. In paragraph (b) (2) thereof substitute "26th" for "24th."

e. In paragraph (d) thereof substitute "14th" for "12th."

f. In paragraph (e) (1) thereof substitute "16th" for "14th."

g. In paragraph (e) (2) thereof substitute "16th" for "14th."

By Dayton-Springfield handlers:

24. Amend § 971.9 by substituting "14th" for "12th" and "12th" for "10th."

By Springfield handlers:

25. Amend § 971.9 by adding the words "received from producers" after the words "with respect to all skim milk and butterfat."

By the Dairy Branch, Production and Marketing Administration:

26. Delete § 971.9 and substitute therefor the following:

§ 971.9 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 971.2 (c) (3) each handler shall pay to the market administrator, on or before the 12th day after the end of each month, 2 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to receipts during such month of:

(a) Milk from producers (including such handler's own production), and

(b) Skim milk and butterfat from emergency and other sources classified as Class I milk and Class II milk.

By the Dairy Branch, Production and Marketing Administration:

27. Delete from § 971.10 (a) the phrase "(the exact amount to be determined by the market administrator, subject to review by the Secretary)" and substitute therefor the phrase " or such lesser amount as the Secretary from time to time may prescribe."

28. Add in § 971.10 (a) the phrase "(not including such handler's own production)" following the phrase "during each month from producers."

By the Dayton-Springfield handlers:

29. Amend § 971.10 as follows:

a. In paragraph (a) thereof substitute "14th" for "12th."

b. In paragraph (b) thereof substitute "16th" for "14th."

GENERAL PROPOSALS

By the Dairy Branch, Production and Marketing Administration:

30. Make such other changes as may be required to make the entire marketing agreement or order conform with any amendments thereto which may result from this hearing.

Copies of this notice of hearing and of the tentatively approved marketing agreement and order, as amended, may be procured from the market administrator, 434 Third National Bank Building, Dayton, Ohio, or from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Room 0306, South Building, Washington 25, D. C., or may be there inspected.

Dated: April 29, 1947.

[SEAL] E. A. MEYER,
Assistant Administrator.

[F. R. Doc. 47-4183; Filed, May 1, 1947; 8:50 a. m.]

FEDERAL POWER COMMISSION

[18 CFR, Parts 01, 02, 03, 1,1]

[Docket No. R-103]

GENERAL RULES INCLUDING RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULE MAKING

APRIL 1, 1947.

In the matter of the amendment of the general rules, including rules of practice and procedure (effective September 11, 1946)

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. On August 23, 1946 the Commission, acting pursuant to authority vested in it by the Federal Power Act, particularly sections 209 and 309 thereof, and the Natural Gas Act, particularly sections 16 and 17 thereof (49 Stat. 853, 858; 16 U. S. C. 824h, 825h; 52 Stat. 830, 15 U. S. C. 717o, 717p) adopted its Order No. 132 prescribing and promulgating general rules, including rules of practice and procedure, effective September 11, 1946. The said order and rules were served upon utilities, licensees and natural-gas companies, and were published in the FEDERAL REGISTER on September 11, 1946 (11 F R. 177A, pp. 487–509) they were incorporated in the Code of Federal Regulations as Subchapter A, General Rules, of Chapter I, Title 18 of the said Code.

3. The new general rules, including the new rules of practice and procedure became effective on September 11, 1946. In the intervening period, a number of comments and suggestions for revising the rules have been received from members of the Commission staff, various practitioners before the Commission, and other persons representing utilities, licensees and natural-gas companies, subject to provisions of the Federal Power Act, or the Natural Gas Act, as amended. A number of amendments and suggestions were made by the Federal Power Bar Association in the report of its Committee on Practice and Procedure dated January 13, 1947.

4. Upon consideration of the various proposed amendments and suggestions received and experience acquired to date under the new rules, it appearing that it may be appropriate and consistent with the public interest to revise the rules, it is proposed that the Commission adopt, promulgate and prescribe the following amendments to its general rules including its rules of practice and procedure:

PART 01—ORGANIZATION

Section 01.4 *Delegations of final authority* (pp. 2–3) [1] with no change in the headnote, amend the section to read as follows:

§ 01.4 *Delegations of final authority.* The Commission has authorized:

(a) Except as otherwise expressly provided in the Commission's rules and regulations, the Secretary, or in his absence, the Acting Secretary, to receive and pass upon petitions, motions, or requests of electric public utilities, licensees, natural gas companies and other persons for extensions of time for doing other acts required or allowed to be done at or within a specified time by any rule, regulation, license, permit, certificate, or order of the Commission, not to exceed in any event an extension of 60-days beyond the time or period originally prescribed.

(b) The Secretary, or in his absence, the Acting Secretary, to schedule hearings and issue notices thereof.

(c) The Secretary, or in his absence, the Acting Secretary, to accept service of process upon behalf of the Commission.

(d) The Chief of the Bureau of Power to interpret schedules of power system statements of electric utilities (Forms No. 12, etc.) and to obtain supplemental information required to assure complete and adequate statements; and Regional Engineers to grant 30-day extensions of time for filing such statements.

(e) The Chief of the Bureau of Accounts, Finance and Rates to issue interpretations of the Uniform Systems of Accounts for Public Utilities, Licensees, and Natural Gas Companies; to suspend the requirements of Account 901, Charges by Associated Companies; clearing, of those systems; to interpret schedules of annual reports of electric public utilities, licensees, and natural gas companies (Forms No. 1, 2, etc.) and obtain supplemental information required to assure complete and adequate reports.

(f) The chief presiding examiner and the presiding examiners designated to preside at hearings, to exercise the powers and functions stated and enumerated for presiding officers in the Commission's rules and regulations, particularly its rules of practice and procedure (Part 1 of this chapter)

PART 02—COURSE AND METHOD OF OPERATION

1. Section 02.3 *Preliminary permits* (pp. 13–14) with no change in the headnote, amend the section to read as follows:

§ 02.3 *Preliminary permits.* (a) The requirements for applications for preliminary permits to maintain priority of applications for license, under section 4 (f) of the act, are stated in §§ 4.80, et seq. and 131.10 of this chapter. Such applications are referred to the Bureau of Power and the Bureau of Law for studies and recommendations. Notice of an application filed by any person, association, or corporation is published in local newspapers in the vicinity of the proposed project and is given to states and municipalities likely to be affected, pursuant to section 4 (f) of the act. After notice, a hearing may be held (see § 02.0) If a permit is authorized, it is issued in the manner provided in § 4.85 of this chapter.

(b) Applications for amendment of preliminary permits are governed by the provisions of § 4.84 of this chapter and are processed in the same manner as initial applications, except that notice is given only of applications involving substantial changes in the proposed plan of development.

(c) Proceedings for the cancellation of a preliminary permit may be initiated by a complaint or by Commission order served on the permittee and interested State agencies and published in the FEDERAL REGISTER. Such order is based on staff studies and recommendations by the Bureau of Power and the Bureau of Law. After notice, a hearing may be held (see § 02.0)

2. Section 02.4 *Licenses* (pp. 14–15), with no change in the headnote, amend the section to read as follows:

§ 02.4 *Licenses.* (a) The following applications are governed by the requirements of the cited regulations:

(1) Applications for license for proposed major projects (§§ 4.40, et seq. and 131.2 of this chapter)

(2) Applications for license for constructed major projects (§§ 4.50 et seq. and 131.2 of this chapter)

(3) Applications for amendment of licenses for major projects (§§ 5.1, et seq. and 131.30 of this chapter)

(4) Applications for renewal of licenses for major projects under licenses which expire on specified dates (§ 16.1 of this chapter)

(5) Applications for surrender of licenses for major projects (§ 6.1, et seq. of this chapter) Such applications are processed in the manner stated in § 02.3 (a) except those for amendment or surrender of licenses may be acted on by the Commission after thirty (30) days' public notice published in the FEDERAL REGISTER and, if deemed necessary, in local newspapers.

(b) The following applications are processed in the manner stated in § 02.3 (a), except for notice, according to the requirements of the cited regulations:

(1) Applications for licenses for minor projects (§§ 4.60, et seq. and 131.6 of this chapter)

(2) Applications for licenses for transmission lines only (§§ 4.70, et seq. and 131.5 of this chapter)

(3) Applications for extension of time for commencing or completing construction of a project (§§ 5.3 and 131.30 of this chapter)

(4) Applications for amendment of licenses for minor projects or transmission lines only (§§ 51.1 et seq. and 131.30 of this chapter)

(5) Applications for approval of transfer of license or lease of project property (§§ 9.1 et seq. and 131.20 of this chapter)

(6) Applications for renewal of licenses for minor projects or transmission lines only under license which expires on a specified date (§ 16.1 of this chapter)

(7) Applications for approval of plans and exhibits (§§ 5.2 and 131.30 of this chapter)

(8) Applications for surrender of licenses for minor projects or transmission lines only (§ 6.1 et seq. of this chapter)

(9) Applications for annual licenses (§ 16.1 of this chapter)

(10) Applications concerning a minor part only of a complete project except for transmission lines only (Regulations

[1] The page references set out in parenthesis throughout this notice refer to pages in the pamphlet publication of the Commission's general rules including rules of practice and procedure (effective September 11, 1946).

for similar applications for major projects are applicable)

(c) *Termination of license.* Proceedings for the termination of a license pursuant to section 13 of the act may be initiated by a complaint or by Commission order served on the licensee and interested State agencies and published in the FEDERAL REGISTER. Such order is based on staff studies and recommendations by the Bureau of Power and the Bureau of Law. After notice, a hearing may be held (see § 02.0)

PART 03—SUBSTANTIVE RULES, GENERAL POLICY, AND INTERPRETATIONS

1. Redesignate § 03.1 as § 03.2, with no change in headnote or text, and insert a new § 03.1, with the headnote *"Regulations under the Federal Power Act"* to read as follows:

§ 03.1 *Regulations under the Federal Power Act.* The regulations under the Federal Power Act, considered in part substantive and in part procedural, are published as Parts 4, 5, 6, 9, 11, 16, 20, 24, 25, 32, 33, 34, 35, 41, and 45 of this chapter.

2. Add new § 03.3, with the headnote *"Approved forms"* to read as follows:

§ 03.3 *Approved form.* The approved forms, statements, and reports under the Federal Power Act, are listed and described in §§ 02.13 and 02.44 of this chapter.

3. Redesignate § 03.51 as § 03.52, with no change in title or text, and insert a new § 03.51, with the headnote *"Regulations under the Natural Gas Act"* to read as follows:

§ 03.51 *Regulations under the Natural Gas Act.* The regulations under the Natural Gas Act, considered in part substantive and in part procedural, are published as Parts 153, 154, 157 and 158 of this chapter.

4. Add new § 03.53, with the headnote *"Approved forms"* to read as follows:

§ 03.53 *Approved forms.* The approved forms, statements, and reports under the Natural Gas Act, are listed and described in § 02.73 of this chapter.

PART 1—RULES OF PRACTICE AND PROCEDURE

1. Section 1.1 *The Commission* (Rule 1, pp. 101–104) amend paragraphs (c) (3) and (f) (13) to read as follows:

(c) *Sessions.* The Commission meets and exercises its powers in any part of the United States.

* * * * *

(3) *Special.* Special sessions of the Commission for consultation, or for the transaction of business, may be held at any time and place as may be scheduled by the Commission.

* * * * *

[2] In Part 1 of Subchapter A the Code section numbers to the right of the decimal points correspond with the respective "rule" numbers set forth in the pamphlet publication of the Commission's general rules including rules of practice and procedure (effective September 11, 1946); the appropriate rule and page references are given in parentheses at the beginning of each Code section proposed to be amended.

(f) *Definitions.* As used in the regulations in this part, except as otherwise required by the context:

* * * * *

(13) *Interveners.* Persons petitioning to intervene as provided by § 1.8, when admitted as a participant to a proceeding, and State Commissions giving notice of intervention as provided in § 1.8, are styled interveners. Admission as an intervener shall not be construed as recognition by the Commission that such intervener might be aggrieved by any order of the Commission in such proceeding.

2. Section 1.4 *Appearances and practice before the Commission* (Rule 4, pp. 109–110) amend paragraph (a) (4) to read as follows:

(a) *Appearances.* * * *

(4) Any person appearing before or transacting business with the Commission in a representative capacity may be required by the Commission or the presiding officer to file evidence of his authority to act in such capacity.

3. Section 1.6 *Complaints* (Rule 6, pp. 113–114) change the headnote to read *"Complaints and orders to show cause"*, and amend the section to read as follows:

§ 1.6 *Complaints and orders to show cause*—(a) *Informal complaints*—(1) *Form.* Informal complaints may be made by letter or other writing, and will be filed as received. Matters informally presented will, if their nature so warrants, be taken up by correspondents or conference with the party or parties complained of in an endeavor to bring about satisfaction of the complaint without formal hearing.

(2) *Substance.* No form of informal complaint is prescribed but in substance it should contain the name and address of complainant, the name and address of the party against whom the complaint is made, and a brief statement of the facts forming the basis of such complaint. Although the filing of an informal complaint is without prejudice to complainant's right to file a formal complaint, only formal complaints submitted and prosecuted in the manner hereinafter prescribed will initiate formal proceedings or make complainant a party to any proceedings already initiated, and only formal complaints will be admitted in the record of formal proceedings. It is desirable that the informal complaint be accompanied by sufficient copies to enable the Commission to transmit one to each party named and to each interested State commission, and retain one for its own use, and it may be accompanied by supporting papers.

(b) *Formal complaints*—(1) *Form.* Formal complaints shall be in writing and under oath and shall conform to the requirements of §§ 1.15 and 1.16. In such complaints there shall be stated the names and addresses of all parties, complainant and defendant, in full without abbreviations, with the name and address of each complainant's attorney, if any.

(2) *Substance.* Formal complaints shall be so drawn as fully and completely to advise the parties, defendant and the Commission of the facts constituting the grounds of the complaint, the provisions of statutes, rules, regulations, and orders relied upon, involving authority of the Commission, the injury complained of, and the relief sought.

(c) *Joinder.* Two or more grounds of complaint involving the same purposes, subject, or state of facts, may be included in one complaint, but should be separately stated and numbered; and two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and involve substantially the same purposes and subject, and a like state of facts.

(d) *Orders to show cause.* Whenever the Commission desires to institute a proceeding against any person under statutory or other authority, the Commission may commence such action by an order to show cause setting forth the grounds for such action. Said order will contain a statement of the particulars and matters concerning which the Commission is inquiring, which shall be deemed to be tentative and for the purpose of framing issues for consideration and decision by the Commission in the proceeding, and the order will require that the respondent named respond orally, or in writing (as provided in § 1.9 (c)), or both.

4. Section 1.8 *Intervention* (Rule 8, pp. 117–118), amend the section to read as follows:

§ 1.8 *Intervention*—(a) *Initiation of intervention.* Participation in a proceeding as an intervener may be initiated as follows:

(1) By the filing of a notice of intervention by a State Commission, including any regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy, or natural gas, as the case may be, to consummers within the State or municipality.

(2) By order of the Commission upon petition to intervene.

(b) *Who may petition.* A petition to intervene may be filed by any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. Such right or interest may be:

(1) A right conferred by statute of the United States;

(2) An interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Commission's action in the proceeding (the following may have such an interest: Consumers served by the applicant, defendant, or respondent; holders of securities of the applicant, defendant, or respondent; and competitors of the applicant, defendant, or respondent)

(3) Any other interest of such nature that petitioner's participation may be in the public interest.

(c) *Form and contents of petitions.* Petitions to intervene shall set out clearly and concisely the facts from which the nature of the petitioner's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the petitioner in the proceed-

ing, so as fully and completely to advise the parties and the Commission as to the specific issues of fact or law to be raised or controverted, by admitting, denying, or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the proceeding, and citing by appropriate reference the statutory provisions or other authority relied on. They shall in other respects comply with the requirements of §§ 1.15 and 1.16.

(d) *Filing and service of petitions.* Petitions to intervene and notices of intervention shall be filed with the Commission within the time provided in any notice of the proceeding or in the order fixing date of hearing, but not less than 10 days before the date set for the commencement of the hearing, if any, except as otherwise specifically permitted by the Commission in extraordinary circumstances for good cause shown. Service shall be made as provided in § 1.17. Where a person has been permitted to intervene notwithstanding his failure to file his petition within the time prescribed in this paragraph, the Commission or presiding officer may, where the circumstances warrant, admit any exhibit in evidence without requiring additional copies thereof to be produced for such intervener.

(e) *Answers to petitions.* Any party to the proceeding or staff counsel may file an answer to a petition to intervene, and in default thereof, may be deemed to have waived any objection to the granting of such petition. If made, answers shall be filed within 10 days after the date of service of the petition, but not later than 5 days prior to the date set for the commencement of the hearing, if any, unless for cause the Commission with or without motion shall prescribe a different time. They shall in all other respects conform to the requirements of §§ 1.15 to 1.17, inclusive.

(f) *Notice and action on petitions—*(1) *Notice and service.* Petitions to intervene, when tendered to the Commission for filing, shall show service thereof upon all participants to the proceeding in conformity with § 1.17 (b)

(2) *Action on petitions.* As soon as practicable after the expiration of the time for filing answers to such petitions or default thereof, as provided in paragraph (e) of this section, the Commission will grant or deny such petition in whole or in part or may, if found to be appropriate, authorize limited participation. No petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission after opportunity for all parties to object thereto. Only to avoid detriment to the public interest will any presiding officer tentatively permit participation in a hearing in advance of, and then only subject to, the granting by the Commission of a petition to intervene.

(g) *Limitation in hearings.* Where there are two or more interveners having substantially like interests and positions, the Commission or presiding officer may, in order to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of such interveners.

5. Section 1.9 *Answers* (Rule 9, pp. 119–120), amend the section to read as follows:

§ 1.9 *Answers*—(a) *Answers to formal complaints and petitions.* Answers to formal complaints and petitions, other than petitions to intervene, shall be filed with the Commission within 30 days after the date of service, unless for cause the Commission with or without motion shall prescribe a different time, but in no case shall answer be required in less than 10 days after the date of service. Any defendant failing to file answer within such period shall be deemed in default, and all relevant basic facts stated in such complaint or petition may be deemed admitted. All answers shall be in writing and under oath, and so drawn as fully and completely to advise the parties and the Commission as to the nature of the defense. They shall admit or deny specifically and in detail each material allegation of the pleading answered, and state clearly and concisely the facts and matters of law relied upon. They shall conform to the requirements of §§ 1.15 to 1.17, inclusive.

(b) *Answers to petitions to intervene.* See § 1.8 (e)

(c) *Answers to orders to show cause.* Any person upon whom an order to show cause has been served under § 1.6 shall, if directed so to do, respond to the same by filing within the time specified in said order an answer in writing and under oath. Such answer shall be drawn so as specifically to admit or deny the allegations or charges which may be made in said order, set forth with particularity the facts upon which respondent relies, and state concisely the matters of law relied upon. Mere general denials of the allegations of said order unsupported by specific facts upon which respondent relies will not be considered as complying with the order and may be deemed a basis for entry of a final order without hearing, unless otherwise required by statute, on the ground that the response has raised no issues requiring a hearing or further proceedings. Any respondent failing to file answer within the time allowed shall be deemed in default, and all relevant facts stated in said order to show cause may be deemed admitted. Such answer shall otherwise conform to the requirements of §§ 1.15 to 1.17, inclusive.

(d) *Answers to motions.* See § 1.12 (c)

(e) *Defendants seeking affirmative relief.* Defendants seeking relief against other parties in a proceeding by reason of the presence of common questions of law or fact shall set forth in their answer the facts constituting the grounds of complaint, the provisions of the statutes, rules, regulations, or orders relied upon, the injury complained of, and the relief sought. The answer shall in all other respects conform to the requirements of this section and §§ 1.15 to 1.17, inclusive.

(f) *Replies to defendants seeking affirmative relief.* Unless otherwise ordered by the Commission, replies to answers seeking affirmative relief must be filed and served within 15 days after the service of the answer, but not later than 5 days prior to the date set for the commencement of the hearing, if any. They shall in all other respects conform to the requirements of §§ 1.15 to 1.17, inclusive.

(g) *Answers to amendments of pleadings.* Any party to a proceeding or staff counsel may file an answer to any amendment, modification or supplement to an application, complaint, petition or other pleading. If made, answers shall be filed within 15 days after the date of service of the amendment, modification or supplement, unless for cause the Commission or presiding officer with or without motion shall prescribe a different time. They shall in all other respects conform to the requirements of §§ 1.15 to 1.17, inclusive.

(h) *Satisfaction of complaints.* If the defendant satisfies a formal complaint either before or after answering, a statement to that effect signed by the opposing parties shall be filed, setting forth when and how the complaint has been satisfied and requesting dismissal. Such statements shall be served upon all parties, and the original copies of such statements, when filed, shall show service on all parties, and in other respects shall conform to the requirements of §§ 1.15 to 1.17, inclusive; all additional copies shall be conformed thereto.

6. Section 1.11 *Amendments and withdrawal of pleadings* (Rule 11, pp. 123–124) amend paragraphs (a) and (d) of the section to read as follows:

§ 1.11 *Amendments and withdrawal of pleadings*—(a) *Amendments.* Any modification or supplement to an application, complaint, petition or other pleading shall be deemed as an amendment to the pleading, and shall comply with all requirements of the regulations in this part relating to the pleading amended in so far as appropriate and in all other respects shall conform to the requirements of §§ 1.15 to 1.17, inclusive. Upon its own motion or upon motion promptly filed by any participant, the Commission may for good cause decline to permit, or may strike in whole or in part, any amendment. No amendment to a pleading may be filed within 5 days next preceding the commencement of or during a hearing unless directed or permitted by the Commission or the presiding officer after opportunity for all parties to be heard thereon.

* * * * *

(d) *Withdrawal of pleadings.* A participant desiring to withdraw a pleading filed with the Commission may file a notice of withdrawal thereof with the Commission. Such notice shall set forth the reasons for the withdrawal and conform to the requirements of this section and §§ 1.15 to 1.17, inclusive, as to copies, form, service, subscription, and verification. A certificate shall accompany every such notice showing service on all participants. Unless otherwise ordered by the Commission for good cause, such notice shall, 30 days after the filing thereof, be deemed to have effected the withdrawal of the pleading, including amendments, if any. *Provided, however,*

That this paragraph shall not be construed as effecting, without express permission of the Commission, withdrawal of:

(1) Any pleading in any proceeding in which a hearing has been held or is in progress;

(2) Any formal complaint, answer thereto, response to order to show cause, or any amendment to any of the aforesaid pleadings;

(3) Any declaration of intention or application for license, or amendment thereof, under Part I of the Federal Power Act.

7. Section 1.12 *Motions* (Rule 12, p. 125) amend the section to read as follows:

§ 1.12 *Motions*—(a) *Scope and contents.* After a hearing has commenced in a proceeding, a request may be made by motion for any procedural or interlocutory ruling or relief desired except as may be expressly provided for in §§ 1.5, 1.6, 1.7 (b) and (c) 1.8, 1.9, 1.10 and 1.11. Other motions may be made as provided for elsewhere in the regulations in this part. Motions shall set forth the ruling or relief sought, and state the grounds therefor and the statutory or other authority relied upon.

(b) *Presentation.* The requirements of §§ 1.15 to 1.17, inclusive shall apply to all written motions. Motions made during hearings may be stated orally upon the record, *Provided, however* That the Commission or presiding officer may require that such motions be reduced to writing and filed separately.

(c) *Objections.* Any party or staff counsel shall have ten days within which to answer or object to any motion unless the period of time is otherwise fixed by the Commission or presiding officer.

(d) *Rulings on.* The presiding officer designated to preside at a hearing is authorized to rule upon any motion not formally acted upon by the Commission prior to the commencement of the hearing where immediate ruling is essential in order to proceed with the hearing, and upon any motion filed or made after the commencement thereof and prior to the submission of his initial or recommended decision in the proceeding: *Provided, however* That no motion made before or during a hearing, a ruling upon which would involve or constitute a final determination of the proceeding, shall be ruled upon by a presiding officer except as a part of either his initial or recommended decision submitted after the conclusion of the hearing: *Provided further* That this section shall not be construed as precluding a presiding officer, within his discretion, from referring any motion to the Commission for ultimate determination. The Commission will rule upon all other motions and upon such motions as presiding officers may certify to the Commission for disposition.

8. Section 1.13 *Time; extensions of time; continuances* (Rule 13, pp. 127–128), change the headnote to read "*Time; extensions of time; issuance of orders,*" and amend the section to read as follows:

§ 1.13 *Time; extensions of time; issuance of orders*—(a) *Computation of time.* Except as otherwise provided by law, in computing any period of time prescribed or allowed by these rules, by any rule, regulation, or order of the Commission, or by any applicable statute, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included, but the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or a holiday. A part-day holiday shall be considered as other days and not as a holiday.

(b) *Issuance of orders.* In computing any period of time involving the date of the issuance of an order by the Commission, the day of issuance of an order shall be the day the Office of the Secretary mails or delivers copies of the order (full text) to the parties or their attorneys of record, or makes such copies public, whichever be the earlier. Orders will not be made public prior to their mailing or delivery to the parties or their attorneys of record, except where the Commission finds the public interest so requires. The day of issuance of an order may or may not be the day of its adoption by the Commission. In any event, the Office of the Secretary shall clearly indicate on each order the date of its issuance. At the time any intermediate initial or tentative decision becomes effective as a decision of the Commission in the absence of Commission review as provided for by §§ 1.30 and 1.31, the Secretary will issue and serve upon the parties or their attorneys of record an appropriate notice of the date such decision became effective as a Commission decision or order.

(c) *Effective dates of orders.* Orders of the Commission shall be effective as of the dates of issuance unless otherwise specifically provided in the orders.

(d) *Extensions of time.* Except as otherwise provided by law, whenever by any rule, regulation, or order of the Commission, or any notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission or the presiding officer, for good cause be extended upon motion made before expiration of four-fifths of the period originally prescribed or as previously extended; and upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are found for the failure to act and where neither the interest of the public nor any party will be prejudiced thereby.

(e) *Continuances.* Except as otherwise provided by law, the Commission may for good cause at any time, with or without motion, continue or adjourn any hearing. A hearing before the Commission or a presiding officer, shall begin at the time and place ordered by the Commission, but thereafter may be adjourned from time to time or from place to place by the Commission or the presiding officer.

(f) *Requests for continuance, time extensions.* Except as otherwise provided by law, requests for continuance of hearings or for extensions of time in which to perform any act required or allowed to be done at or within a specified time by any rule, regulation, or order of the Commission, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a hearing in a proceeding, such requests may be made by oral motion in the hearing before Commission or the presiding officer. Written motions filed under this section shall conform to the requirements of §§ 1.12 and 1.15 to 1.17, inclusive.

9. Section 1.15 *Formal requirements as to pleadings, documents, and other papers filed in proceedings* (Rule 15, pp. 131–132) amend paragraph (b) of the section to read as follows:

(b) *Copies.* Except as may be otherwise required by the rules or regulations of the Commission, or ordered or requested by the Commission, at the time pleadings, documents, or other papers other than correspondence, are filed with the Commission, there shall be furnished to the Commission an original and 19 conformed copies of such papers and exhibits, if any: *Provided, however,* When service is made by the parties, only an original and 14 conformed copies need be filed. (See § 1.17 (f) re service and § 1.26 (c) (5) re exhibits in hearings.)

10. Section 1.16 *Subscription and verification* (Rule 16, p. 133), amend the section to read as follows:

§ 1.16 *Subscription and verification*—(a) *Subscription*—(1) *By whom.* Applications, formal complaints, petitions and other pleadings, amendments thereto, notices, reports, exhibits, and other requests, submittals, or statements filed with the Commission shall be subscribed: (1) By the person filing the same, and severally if there be more than one person so filing; (2) by an officer thereof if it be a corporation, trust, association, or other organized group; (3) by an officer or employee thereof if it be a State commission, a department or political subdivision of a State, or other governmental authority, agency, or instrumentality; or (4) by an attorney having authority with respect thereto. Applications, formal complaints, petitions to intervene and petitions initiating proceedings, filed by any corporation, trust, association, or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing such pleadings.

(2) *Effect.* The signature of the person, officer or attorney subscribing any pleading or matter filed with the Commission constitutes a certificate by such individual that he has read the pleading or matter being subscribed and filed, and knows the contents thereof; that if executed in any representative capacity, the matter has been subscribed and executed in the capacity specified upon the pleading or matter filed with full power and authority so to do; that the contents are true as stated, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

(b) *Verification.* Any facts alleged in the matter filed shall be verified under oath by the person filing, an officer, or other person having knowledge of the matters set forth. If the verification be by any one other than the person filing or other than an officer thereof there shall be filed with the Commission a statement of the reason therefor.

11. Section 1.17 *Service* (Rule 17, pp. 135–136) amend paragraphs (e) and (f) of the section to read as follows:

(e) *Certificate of service.* There shall accompany and be attached to the original of each pleading, document, or other paper filed with the Commission, when service is required to be made by the parties, a certificate of service in the form prescribed, 18 CFR 131.1, 250.1. All other copies filed shall be fully conformed thereto.

(f) *Copies.* Where service is made by the parties, or service is not required to be made, save to the extent a different number is required by the Commission's rules and regulations governing the specific filing, an original and 14 conformed copies of such pleadings, documents, or other papers, together with exhibits, if any, shall be filed with the Commission in lieu of the original and 19 conformed copies required by § 1.15 (b) (See § 1.26 (c) (5) re exhibits in hearings.)

12. Section 1.18 *Prehearing conferences* (Rule 18, pp. 137–138) change the headnote to read *"Prehearing conferences; offers of settlement"* and amend the section to read as follows:

§ 1.18 *Prehearing conference; offers of settlement*—(a) *To adjust or settle proceedings.* In order to provide opportunity for settlement of a proceeding, or any of the issues therein, there may be held at any time prior to or during hearings before the Commission or a presiding officer designated to preside at conferences or hearings, such informal conferences of parties and staff counsel for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment as time, the nature of the proceeding, and the public interest may permit.

(b) *To expedite hearings.* To expedite the orderly conduct and disposition of any hearing, at such prehearing conferences as may be held, there may be considered, in addition to any offers of settlement or proposals of adjustment, the possibility of the following:

(1) The simplification of the issues;

(2) The exchange and acceptance of service of exhibits proposed to be offered in evidence;

(3) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(c) *Initiation of conferences.* The Commission with or without motion may direct that a prehearing conference be held. Upon motion by a party or staff counsel timely filed, a presiding officer designated to preside at the hearing or such other officer as may be designated may direct the attorneys for the parties to such proceedings and staff counsel to appear for a prehearing conference to consider the matters outlined in paragraph (b) of this section. Due notice of the time and place of such conference will be given to all parties to the proceeding and staff counsel.

(d) *Conference results stipulated.* Upon conclusion of a prehearing conference, attorneys for the parties and staff counsel shall immediately reduce the results thereof to the form of a written stipulation which recites the matters agreed upon, and 10 copies thereof shall forthwith be filed with the Commission by the presiding officer of such conference. Such stipulations may be received in evidence at a hearing and, when so received, shall be binding on the parties and staff counsel with respect to the matters therein stipulated.

(e) *Offers of settlement.* Nothing contained in this Rule shall be construed as precluding any party to a proceeding from submitting at any time offers of settlement or proposals of adjustment to all other parties and to the Commission (or to staff counsel for transmittal to the Commission) or from requesting conferences for such purpose. Offers of settlement and the contents thereof shall be without prejudice to anyone if not accepted and acted upon.

13. Section 1.20 *Hearings* (Rule 20, pp. 141–144) amend paragraphs (b) and (k) of the section to read as follows:

(b) *Consolidation.* The Commission, upon its own motion, or upon motion by a party or staff counsel, may order proceedings involving a common question of law or fact to be consolidated for hearing of any or all the matters in issue in such proceedings.

(k) *Transcript and record.* Hearings shall be stenographically reported by the official reporter of the Commission, and a transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Such transcripts shall include a verbatim report of the hearings; nothing shall be omitted therefrom except as is directed on the record by the Commission or the presiding officer. After the closing of the record, there shall not be received in evidence or considered as part of the record any document, letter, or other writing submitted after the close of testimony except as provided in paragraph (j) of this section, or changes in the transcript as provided in paragraph (l) of this section.

14. Section 1.23 *Subpenas* (Rule 23, p. 149) amend paragraph (a) of the section to read as follows:

§ 1.23 *Subpenas*—(a) *Issuance.* Subpenas for the attendance of witnesses or for the production of documentary evidence, unless directed by the Commission upon its own motion, will issue only upon application in writing to the Commission or the presiding officer, except that during sessions of a hearing in a proceeding, such application may be made orally on the record before the Commission or presiding officer, who is hereby given authority to determine the relevancy and materiality of the evidence sought and to issue such subpenas in accordance with such determination. Such written applications shall be verified and shall specify as nearly as may be the general relevance, materiality, and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as may be, of the documents desired and the facts to be proved by them in sufficient detail to indicate the materiality and relevance of such documents.

15. Section 1.24 *Depositions* (Rule 24, pp. 151–153) amend paragraphs (a), (e) and (h) to read as follows:

§ 1.24 *Depositions*—(a) *When permissible.* The testimony of any witness may be taken by deposition, upon application by a participant in a proceeding pending before the Commission, at any time before the hearing is closed, upon approval by the Commission or the presiding officer.

* * * * *

(e) *Oath and reduction to writing.* Every person whose testimony is taken by deposition shall be sworn, or shall affirm concerning the matter about which he shall testify, before any questions are put or testimony given. The testimony shall be reduced to writing by the Officer, or under his direction, after which the deposition shall be subscribed by the witness and certified in the usual form by the Officer. Unless otherwise directed in the authorization, after the deposition has been so subscribed and certified, it shall, together with the number of copies specified in the authorization, the copies being made by such Officer or under his direction, be forwarded by such Officer in a sealed envelope addressed to the Commission at its office in Washington 25, D. C., with sufficient stamps for postage affixed. Upon receipt thereof, the Secretary shall file the original in the proceeding and shall forward a copy to each party or his attorney of record and to staff counsel.

* * * * *

(h) *Not part of record unless received in evidence.* No part of a deposition shall constitute a part of the record in the proceeding, unless received in evidence by the Commission or presiding officer. Objection may be made at the hearing in the proceeding to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

16. Section 1.25 *Stipulations* (Rule 25, p. 155) amend paragraph (b) of the section to read as follows:

(b) *Form, style, and service.* Stipulations shall conform to the applicable requirements of § 1.15 to 1.17, inclusive, except stipulations made orally on the record during the hearings.

17. Section 1.26 *Evidence* (Rule 26, pp. 157–158) amend paragraph (a) and paragraphs (c) (3), (4) and (5), to read as follows:

§ 1.26 *Evidence*—(a) *Form and admissibility.* In any proceeding before the Commission or a presiding officer relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of the kind which would affect reasonable and fair-minded men in the conduct of their daily affairs.

(c) *Documentary.* * * *

(3) *Records in other proceedings.* When any portion of the record in any other proceeding before the Commission is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy thereof shall be presented in the form of an exhibit, together with additional copies as provided in subparagraph (5) of this paragraph, unless:

(i) The participant offering the same agrees to supply, within a period of time specified by the Commission or the presiding officer, such copies at his own expense, if and when so required; and

(ii) The portion is specified with particularity in such manner as to be readily identified, and upon motion is admitted in evidence by reference to the records of the other proceeding.

(4) *Form and size.* Wherever practicable, all exhibits of a documentary character received in evidence shall be on paper of good quality and so prepared as to be plainly legible and durable, whether printed, photostated or typewritten, and shall conform to the requirements of § 1.15 whenever practicable.

(5) *Copies to parties and Commission.* Except as otherwise provided in the regulations in this part when exhibits of a documentary character are offered in evidence, copies shall be furnished to the presiding officer and to the parties or counsel, including staff counsel, unless the Commission or the presiding officer otherwise directs. In addition, unless otherwise directed by the Commission or the presiding officer, 4 copies of each exhibit of documentary character shall be furnished for the use of the Commission.

18. Section 1.27 *Presiding officers.* (Rule 27, pp. 161–162) amend paragraphs (a) and (b) of the section to read as follows:

§ 1.27 *Presiding officers*—(a) *Designation.* When evidence is to be taken in a proceeding, either the Commission or, when duly designated for that purpose, one or more of its members, presiding examiners, or other representative appointed according to law, may preside at the hearing.

(b) *Authority delegated.* Presiding officers duly designated by the Commission to preside at hearings shall have the authority, within the Commission's powers and subject to its published rules, as follows:

(1) To regulate the course of hearings;

(2) To administer oaths and affirmations;

(3) To issue subpenas;

(4) To rule upon offers of proof and receive evidence;

(5) To take or cause depositions to be taken;

(6) To hold appropriate conferences before or during hearings;

(7) To dispose of procedural matters but not, before their initial or recommended decisions, to dispose of motions made during hearings to dismiss proceedings or other motions which involve final determination of proceedings;

(8) Within their discretion, or upon direction of the Commission, to certify any question to the Commission for its consideration and disposition;

(9) To submit their initial or recommended decisions in accordance with § 1.30;

(10) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authorities under which the Commission functions and with the rules, regulations, and policies of the Commission.

19. Section 1.28 *Appeals to Commission from rulings of presiding officers during hearings* (Rule 28, pp. 163–164), strike the last two words of the headnote and amend the section to read as follows:

§ 1.28 *Appeals to Commission from rulings of presiding officers during hearings*—(a) *During hearing.* Rulings of presiding officers may not be appealed from during the course of hearings except in extraordinary circumstances where prompt decision by the Commission is necessary to prevent detriment to the public interest should the presiding officer's ruling later be reversed by the Commission. In such instance the matter shall be referred forthwith by the presiding officer to the Commission for determination.

(b) *Offers of proof.* Any offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony and if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

20. Section 1.29 *Briefs and oral arguments before presiding officers and proposed findings and orders* (Rule 29, pp. 165–166) amend paragraph (e) of the section to read as follows:

(e) *Briefs, filing and service.* Briefs not filed and served on or before the dates fixed therefor shall not be accepted for filing, except by special permission of the Commission or the presiding officer. All briefs shall be accompanied by a certificate showing service upon all parties or their attorneys who appeared at the hearing or on brief, and except where filing of a different number is permitted or directed by the Commission or presiding officer, 20 copies of each brief shall be furnished for the use of the Commission. Requests for the extension of time in which to file briefs shall conform to the requirements of § 1.13, and shall be filed at least five days before the time fixed for filing such briefs.

21. Section 1.31 *Exceptions to intermediate decisions and briefs and oral arguments before Commission* (Rule 31, pp. 171–172) amend paragraphs (a) and (c) paragraph (d) (2), and paragraphs (e) and (f) to read as follows:

(a) *Exceptions, filing of.* Any party or staff counsel desiring to appeal to the Commission may, within 20 days after the service of a copy of an intermediate decision (initial or recommended by subordinates, or tentative by Commission) or such other time as may be fixed by the Commission, file exceptions thereto.

* * * * *

(c) *Failure to except results in waiver.* Failure to file exceptions within the time allowed under this rule shall constitute a waiver of all objections to the intermediate decision served. No matter not included in the exceptions filed as provided in this section may thereafter be objected to before the Commission upon brief or oral argument, or in an application for Commission rehearing; and any matter not included in such exceptions shall be deemed waived. Exceptions covering rulings admitting or excluding evidence not objected to at the time the rulings were made, will be unavailing.

(d) *Briefs and oral argument before Commission.* * * *

(2) *Hearing before presiding officer.* In proceedings in which the Commission has not presided at the reception of the evidence, any party or staff counsel may file a motion requesting opportunity to present oral argument or to file briefs concerning matters before the Commission for decision, except that where exceptions have been filed, they shall constitute the brief before the Commission. Such motions may be filed at any time during a proceeding, but not later than the time permitted for the filing of exceptions to the intermediate decision: *Provided, however* That opportunity to file briefs or to make oral argument may be requested in motions for waiver of intermediate decisions, as provided in § 1.30.

(e) *Briefs and arguments, contents and scope.* When the Commission has presided at the reception of the evidence, or when the parties have waived the intermediate decision procedure, briefs and arguments before the Commission may include and present for consideration the matters as provided in § 1.29 relating to briefs and oral arguments before presiding officers, and in all other respects, as applicable, such arguments and briefs shall conform to the requirements of § 1.29. In all other proceedings, briefs, and oral arguments before the Commission may include those matters that may properly be included and presented in exceptions to intermediate decisions, subject to the same conditions contained in paragraph (c) of this section.

(f) *Exceptions and briefs, form and service.* Exceptions and briefs shall conform to the requirements as applicable of §§ 1.15 and 1.17 as to copies, form, and service, 15 copies thereof being filed with the Commission, in addition to the copies served on the parties to the proceeding.

22. Section 1.32 *shortened procedures* (Rule 32, p. 175) amend paragraph (b) of the section to read as follows:

(b) *Noncontested proceedings.* In any proceeding required by statute to be set for hearing, the Commission when it appears to be in the public interest and to the interest of the parties to grant the relief or authority requested in the initial pleading, and to omit the intermediate decision procedure, may after a hearing during which no opposition or contest develops, forthwith dispose of the proceeding upon consideration of the pleadings and other evidence filed and incorporated in the record: *Provided,* (1) The applicant or initial pleader requests that the intermediate decision procedure be omitted and waives oral hearing and opportunity for filing exceptions to the decision of the Commission; and (2) no issue of substance is raised by any request to be heard, protest or petition filed subsequent to publication in the FEDERAL REGISTER of the notice of the filing of an initial pleading and notice or order fixing date of hearing, which notice or order shall state that the Commission considers the proceeding a proper one for disposition under the provisions of this section, and shall otherwise conform with the requirements of § 1.19. Requests for the procedure provided by this section may be contained in the initial pleading or subsequent request in writing to the Commission. The decision of the Commission in such proceeding after noncontested hearing, will be final, subject to reconsideration by the Commission upon application for rehearing as provided by statute.

5. The amendments are proposed to be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 209 and 309 thereof, and the Natural Gas Act, as amended, particularly sections 16 and 17 thereof (49 Stat. 853, 858; 16 U. S. C. 824h, 825h; 52 Stat. 830, 15 U. S. C. 717o, 717p)

6. Any interested persons may submit to the Federal Power Commission not later than May 20, 1947, data, views and comments in writing concerning the proposed amendments. The Commission will consider these written submittals before acting upon the proposed amendments.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-4171; Filed, May 1, 1947; 9:02 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 8407, Amdt.]

GUSTAV HERTER

In re: Estate of Gustav Herter, deceased. File F-28-2346.

Vesting Order Number 8407, dated March 11, 1947, is hereby amended as follows and not otherwise:

By deleting: "That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and the Estate of Gustav Herter, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)" and by substituting therefor: "That the right of said Dina Henrietta Johanna Herter under section 18 of the Decedent Estate Law of New York to file an election to take her share of the Estate of Gustav Herter, deceased, as in intestacy, and all other right, title, interest and claim of any kind or character whatsoever of said Dina Henrietta Johanna Herter in, to and against the Estate of said Gustav Herter, deceased, is property or an interest therein owned or controlled by, payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)"

All other provisions of said Vesting Order 8407 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on April 29, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F R. Doc. 47-4186; Filed, May 1, 1947; 8:49 a. m.]

[Vesting Order 8705]

ANNA WEGENER

In re: Estate of Anna Wegener, deceased. D-28-9481, E. T. sec. 12794.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Albert Burckhardt and Johanne Schierloh, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. The sum of $1,397.27,

b. Three (3) shares of common stock of the Insull Utility Investments, Inc. without par value as represented by stock certificates Nos. CO-101404, CO-117767 and CO-211990, each for one (1) share issued in the name of Anna Wegener together with any declared and unpaid dividends, and

c. Certificate of Deposit No. AO-2786 in the name of Anna Wegener issued by Central Trust Company of Illinois, depositary, for one (1) share of Prior Preferred Stock (Series A) of Chicago Rapid Transit Company together with all rights thereunder and thereto,

was delivered to the Alien Property Custodian by Mathias F Kannen, Administrator of the Estate of Anna Wegener, deceased;

3. That the property described in subparagraph 2 hereof is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the property described in subparagraph 2-a hereof in the Alien Property Custodian on August 21, 1946 and the property described in subparagraphs 2-b and 2-c hereof in the Attorney General of the United States on January 27, 1947, by the acceptance thereof on said dates pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 14, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F R. Doc. 47-4175; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8756]

YAICHIRO AOKI

In re: Estate of Yaichiro Aoki, deceased, D-39-19039; E. T. sec. 15833.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Sunao Aoki, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Yaichiro Aoki, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy county (Japan)

3. That such property is in the process of administration by Katsuno Aoki, as Executrix, acting under the judicial supervision of the Circuit Court, First Judicial Circuit, Territory of Hawaii;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4154; Filed, Apr. 30, 1947; 8:47 a. m.]

[Supplemental Vesting Order 8753]

ALBERT FABER

In re: Estate of Albert Faber, deceased. File D-28-11003; E. T. sec. 15385.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Sidonie Faber, Herbert Faber, Iram Faber, Erich Faber and Georg Faber, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the Estate of Albert Faber, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Hugh P. Cooper, as Administrator, acting under the judicial supervision of the District Court of the State of New Mexico, in and for the County of Bernalillo;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4152; Filed, Apr. 30, 1947; 8:47 a. m.]

[Vesting Order 8759]

JOHN FRIEDRICH KERN

In re: Estate of John Friedrich Kern, deceased. File D-28-10096; E. T. sec. 14362.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Kern, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of John Friedrich Kern, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany),

3. That such property is in the process of administration by Joe Gobl, as Administrator, acting under the judicial supervision of the Probate Court of Crawford County, Kansas;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4155; Filed, Apr. 30, 1947; 8:47 a. m.]

[Vesting Order 8764]

MARIE PETERS

In re: Estate of Marie Peters, deceased. File D-28-10277; E. T. sec. 14641.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Maria Johannsen Harms, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the issue, names unknown, of Maria Johannsen Harms, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Marie Peters, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Charles Johannsen and Samuel E. Unger, as executors, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

5. That to the extent that the above named person and the issue, names unknown, of Marie Johannsen Harms, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have

the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F R. Doc. 47-4156; Filed, Apr. 30, 1947; 8:47 a. m.]

[Vesting Order 8762]

MARY R. MERZ

In re: Estate of Mary R. Merz, deceased. File No. D-28-9977; E. T. sec. 14163.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Julia Heinzman, Emil Koerber, Herman Koerber and Hedwig Penner, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $2,923.08 was paid to the Alien Property Custodian by Thomas R. Grimm, Administrator of the Estate of Mary R. Merz, deceased.

3. That the said sum of $2,923.08 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Alien Property Custodian by acceptance thereof on September 4, 1946, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-4176; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8765]

V BERNHARD PLOCH

In re: Estate of V Bernhard Ploch, deceased. File No. F-28-2996; E. T. sec. 15510.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carl Philip Boecher, Emilie B. Droop, Maria Boecher, Augusta B. Eymer, George Ploch, V. Bernhard Ploch, August Ploch, Emma Ploch a/k/a Bertha Ploch, Herbert Ploch, Horst Ploch, Helmuth Ploch whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of V. Bernhard Ploch, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by John C. Brodsky, as executor, acting under the judicial supervision of the Surrogate's Court, Kings County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-4177; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8766]

MAGDALENA REITZ

In re: Estate of Magdalena Reitz, deceased. File D-28-10467; E. T. sec. 14884.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lena Wettig, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the issue, names unknown, of Lena Wettig, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Magdalena Reitz, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by John B. Reitz, Jr., as Executor and Trustee, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

5. That to the extent that the above-named person and the issue, names unknown, of Lena Wettig, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-4178; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8767]

MARIE RIEMSCHNEIDER

In re: Estate of Marie Riemschneider, deceased. File No. D-28-10653; E. T. sec. 15005.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paul Riemschneider and Lili Riemschneider, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Marie Riemschneider, deceased, is property payable or deliverable to, or claimed

by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Gerhard Riemschneider and Warner W. Westervelt, Jr., as Executors, acting under the judicial supervision of the Surrogate's Court, New York County, State of New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4179; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8768]

ELMA SCHWERTFEGER

In re: Estate of Elma Schwertfeger, also known as Elma Hinz, deceased. File D-28-2452; E. T. sec. 3479.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hulda Woltschlager Faust, Otto Hinz, Hans Hinz, Ida Hinz Remling, Olga Hinz Gehm, Alama Hinz Vorreau and Lena Hinz Paczenski, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Elma Schwertfeger, also known as Elma Hinz, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Albert B. Houghton, Administrator, with the will annexed, acting under the judicial supervision of the County Court of Milwaukee County, Wisconsin;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4180; Filed, May 1, 1947; 8:48 a. m.]

[Vesting Order 8769]

FRANCES THOMAS

In re: Estate of Frances Thomas, a/k/a Frances Koellmer, deceased. File No. D-28-11642; E. T. sec. 15851.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. Bertha Klaffehn and John Botheuser, Jr., whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the wife of John Botheuser, Jr., name unknown, and his issue, names unknown, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest, and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Frances Thomas, also known as Frances Koellmer, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Charles Carlson, as Executor of the Estate of Frances Thomas, also known as Frances Koellmer, deceased, acting under the judicial supervision of the Surrogate's Court, Bronx County, State of New York;

and it is hereby determined:

5. That to the extent that the above-named persons and the wife of John Botheuser, Jr., name unknown, and his issue, names unknown, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4181; Filed, May 1, 1947; 8:49 a. m.]

[Vesting Order 8771]

ANNA HARRIMAN VANDERBILT

In re: Estate of Anna Harriman Vanderbilt, deceased. File No. D-27-685; E. T. sec. 6412.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paul Tyrode, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Anna Harriman Vanderbilt, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by Treasurer of the City of New York, as depositary, acting under the judicial supervision of the Surrogate's Court, New York County, State of New York;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have

the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 18, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4182; Filed, May 1, 1947; 8:49 a. m.]

[Vesting Order 8774]

EUGEN AND CLARA ARENDT

Re: Debts owing to Eugen Arendt and Clara Arendt. F-28-9145-C-1, F-28-9145-B-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Eugen Arendt and Clara Arendt, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. All those debts or other obligations owing to Eugen Arendt and Clara Arendt by Weniger & Walter, Inc., 215 E. Penn Street, Philadelphia 44, Pennsylvania, including particularly but not limited to a portion of the sum of money on deposit with Fidelity-Philadelphia Trust Company, 135 South Broad Street, Philadelphia, Pennsylvania, in an account entitled Weniger & Walter, Inc., Agents, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Eugen Arendt by Mid-City Bank & Trust Company, Market Street and West City Hall Square, Philadelphia, Pennsylvania, arising out of an account entitled Eugen Arendt, Certificate Number 280, dated October 20, 1942, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

c. That certain debt or other obligation owing to Clara Arendt by Mid-City Bank & Trust Company, Market Street and West City Hall Square, Philadelphia, Pennsylvania, arising out of an account entitled Clara Arendt, Certificate Number 281, dated October 20, 1942, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director*

[F. R. Doc. 47-4183; Filed, May 1, 1947; 8:49 a. m.]

[Vesting Order 8776]

FRITZ GEYER

In re: Stock owned by Fritz Geyer. F-28-24128-D-1/2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Fritz Geyer, whose last known address is 136 Haupt Street, Wallhausen-Helme, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. Fifty-five (55) shares of no par value common capital stock of General Electric Company, 1 River Road, Schenectady, New York, a corporation organized under the laws of the State of New York, evidenced by certificate number NYD-255793 for thirty (30) shares and certificate number NYD-434978 for twenty-five (25) shares, registered in the name of Fritz Geyer, together with all declared and unpaid dividends thereon,

b. One hundred (100) shares of no par value class "A" common capital stock of Continental Baking Company, 630 Fifth Avenue, New York, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate number A 15800, registered in the name of Fritz Geyer, together with all declared and unpaid dividends thereon, and any and all rights of exchange thereunder and thereof, and

c. One hundred (100) shares of no par value class "B" common capital stock of Continental Baking Company, 630 Fifth Avenue, New York, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate number B 36592, registered in the name of Fritz Geyer, together with all declared and unpaid dividends thereon, and any and all rights of exchange thereunder and thereof,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4157; Filed, Apr. 30, 1947; 8:47 a. m.]

[Vesting Order 8779]

KEIJIRO TAKAKURA

In re: Stock owned by Keijiro Takakura. F-39-2075-D-1/2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Keijiro Takakura, whose last known address is Central P O. Box 498, Tokyo, Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the property described as follows:

a. Forty (40) shares of $10 par value common capital stock of General Motors Corporation, 1775 Broadway, New York, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate number C 551763, registered in the name of Keijiro Takakura, together with all declared and unpaid dividends thereon, and

b. Ten (10) shares of no par value common capital stock of Bethlehem Steel Corporation, 25 Broadway, New York, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate number L24585, registered in the name of Keijiro Takakura, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the

aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein, shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4158; Filed, Apr. 30, 1947; 8:47 a. m.]

[Vesting Order 8777]

MARIE KLEEMANN

In re: Bank account and bonds owned by Marie Kleemann. F-28-3205-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Kleemann, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. That certain debt or other obligation owing to Marie Kleemann, by Moline National Bank, 506 15th Street, Moline, Illinois, arising out of a Savings Account, Account Number 59129, entitled Marie Kleemann, and any and all rights to demand, enforce and collect the same,

b. Those certain City of Hobart, Indiana, 6% Improvement bonds, Sunset Division, Series 3, 4, 5, 6, in the aggregate face value of $2,000.00 in bearer form, presently in the custody of Moline National Bank, 506 15th Street, Moline, Illinois, together with any and all rights thereunder and thereto, and

c. One (1) Associated Mortgage Companies Inc., 20-year Debenture of $700.00 face value, bearing the number FM20753 in bearer form, presently in the custody of Moline National Bank, 506 15th Street, Moline, Illinois, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4184; Filed, May 1, 1947; 8:49 a. m.]

[Vesting Order 8778]

PAUL STOPPERKE

In re: Stock and bond owned by Paul Stopperke.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Paul Stopperke, whose last known address is Frankenthal 162, Saxony, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows:

a. Ten (10) shares of $20.00 par value capital stock of Gary Hotel Incorporated, a corporation organized under the laws of the State of Indiana, evidenced by certificate number 1234, dated May 6, 1936, registered in the name of Paul Stopperke, and presently in the custody of the Attorney General of the United States, together with all declared and unpaid dividends thereon, and

b. One (1) Moorcroft Apartments First Mortgage 6½% Gold Bond, due March 15, 1934, of $500.00 face value, bearing the number 263, presently in the custody of the Attorney General of the United States, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on April 22, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK, *Director.*

[F. R. Doc. 47-4185; Filed, May 1, 1947; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

RECREATIONAL WITHDRAWAL NO. 26 REVOKED

The order of the Assistant Secretary of the Interior of August 3, 1929, withdrawing the following-described lands in Oregon as Recreational Withdrawal No. 26 under the act of June 14, 1926, 44 Stat. 741, as amended by the act of April 13, 1928, 45 Stat. 429 (U. S. C. Title 43, secs. 869 and 869a) is hereby revoked.

WILLAMETTE MERIDIAN

T. 33 S., R. 1 E.,
Sec. 23, W½NE¼, W½, and S½SE¼,
Sec. 27, N½ and SW¼,
Sec. 29, SW¼,
Sec. 30, SE¼NE¼, N½NW¼, SW¼NW¼, and E½SE¼,
Sec. 31, NE¼NE¼, SW¼NW¼, SW¼, and E½SE¼,
Sec. 32, N½NE¼ and W½SW¼,
Sec. 33, NE¼NE¼, N½NW¼, S½SW¼, NW¼SE¼, and S½SE¼.
T. 33 S., R. 2 E.,
Sec. 1, SW¼SW¼,
Sec. 11, NE¼SW¼, S½SW¼, and SE¼,
Sec. 18, S½SW¼,
Sec. 19, lot 1, NW¼NE¼, S½NE¼, E½NW¼, SE¼SW¼, and SW¼SE¼.
T. 33 S., R. 1 W.,
Sec. 35, SE¼SE¼.
T. 34 S., R. 1 W.,
Sec. 2, lot 3;
Sec. 3, lots 1, 2, 9, and E½SE¼.
T. 39 S., R. 2 W.,
Sec. 19, E½NE¼, NE¼NW¼, and NE¼SE¼.
Sec. 23, N½SW¼, SW¼SW¼, and W½SE¼.
Sec. 25, lot 4, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼, and S½SE¼.
Sec. 27, S½NE¼ and SE¼NW¼;
Sec. 23, S½NW¼ and SW¼.
T. 39 S., R. 3 W.,
Sec. 11, NE¼ and E½NW¼.
Sec. 13, N½NE¼, SE¼NE¼, NE¼NW¼, and SW¼.

Sec. 15, E½,
Sec. 21, SE¼,
Sec. 27, NE¼SW¼ and S½SW¼,
Sec. 33, E½ and SW¼NW¼.
T. 40 S., R. 3 W.,
Sec. 5, NE¼SW¼, N½SE¼SW¼, and SW¼SE¼,
Sec. 7, SE¼,
Sec. 17, W½,
Sec. 19, lots 1, 2, 3, 5, 6, and E½,
Sec. 31, NW¼.
T. 40 S., R. 4 W.,
Sec. 25, E½.
T. 41 S., R. 4 W.,
Sec. 2, SE¼NE¼ and NW¼NW¼,
Sec. 11, NE¼, E½NW¼, and S½,
Sec. 15, lots 5, 6, 7, and 8.

The areas described aggregate 8,103.09 acres.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on June 17, 1947. At that time, subject to valid existing rights and the provisions of existing withdrawals, the lands described above, other than lot 4 (SW¼SW¼) sec. 18, T. 33 S., R. 2 E., shall become subject to such application, petition, location, or selection as may be authorized by the public land laws, and such lot 4 shall become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from June 17, 1947 to September 15, 1947, inclusive, such lot 4 shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from May 28, 1947, to 10:00 a. m. on June 17, 1947, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on June 17, 1947, shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on September 16, 1947, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference right filings.* Applications by the general public may be presented during the 20-day period from August 27, 1947, to 10:00 a. m. on September 16, 1947, inclusive, and all such applications, together with those presented at 10:00 a. m. on September 16, 1947, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office at Roseburg, Oregon, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254) and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office at Roseburg, Oregon.

Lot 4 (SW¼SW¼) sec. 18, T. 33 S., R. 2 E., is rolling in topography, the surface of which is strewn with numerous rocks and boulders.

WARNER W GARDNER,
Assistant Secretary of the Interior

APRIL 15, 1947.

[F. R. Doc. 47–4112; Filed, Apr. 30, 1947; 8:58 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[P. & S. Docket No. 445]

MARKET AGENCIES AT FORT WORTH STOCKYARDS

NOTICE OF PETITION FOR EXTENSION OF TEMPORARY RATES

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.) the Secretary of Agriculture on December 27, 1946, issued an order prescribing temporary rates and charges for the respondent for the period ending June 30, 1947.

By petition filed April 25, 1947, the respondent has requested that the rates and charges provided for in said order of December 27, 1946, be extended for a further period of six months.

It appears that public notice should be given of the filing of such petition in order that all interested persons may have an opportunity to be heard in the matter.

Now, therefore, notice is hereby given to the public and to all interested persons of the filing of such petition for extension of temporary rates.

All interested persons who desire to be heard upon the matter requested in said petition shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of the publication of this notice.

Copies hereof shall be served upon the respondent by registered mail or in person.

Done at Washington, D. C., this 28th day of April 1947.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 47–4189; Filed, May 1, 1947; 8:50 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2839]

WESTERN–UNITED ROUTE 68 SALES AGREEMENT

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the application of Western Air Lines, Inc., and United Air Lines, Inc., under section 401, 408, and 412 of the Civil Aeronautics Act of 1938, as amended, for an order approving an agreement for the sale of certain properties and the transfer and amendment of a certificate of public convenience and necessity for route No. 68, and amendment of a certificate of public convenience and necessity for route No. 1.

Notice is given pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding, now assigned to be held on May 5, 1947, at 10 a. m., eastern standard time, at the Carlton Hotel, 16th and K Streets NW., Washington, D. C., is hereby postponed until a date to be hereinafter designated.

Dated Washington, D. C., April 29, 1947.

By the Civil Aeronautics Board.

[SEAL] THOMAS L. WRENN,
Examiner

[F. R. Doc. 47–4187; Filed, May 1, 1947; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54–19, 54–92, 59–14]

NEW ENGLAND POWER ASSOCIATION ET AL.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 24th day of April A. D. 1947.

In the matter of New England Power Association, Massachusetts Power and Light Associates, North Boston Lighting Properties, The Rhode Island Public Service Company, Massachusetts Utilities Associates Common Voting Trust, and Massachusetts Utilities Associates, File Nos. 54–92, 59–14 and 54–19.

Notice is hereby given that New England Power Association (the name of which is to be changed to New England Electric System and which is sometimes

hereinafter referred to as NEES) a registered holding company, has filed a declaration regarding the issue and sale of $85,000,000 principal amount of funded debt. The declaration states that the proposed financing is pursuant to the amended plan of simplification of the New England Power Association holding company system as approved by the Commission's order of March 14, 1946 and pursuant to the order of the District Court of the United States for the District of Massachusetts, entered June 18, 1946, in Civil Action No. 5087, approving the said plan and ordering its consummation (affirmed by the United States Circuit Court of Appeals for the First Circuit on April 11, 1947) All interested persons are referred to said declaration and to said plan and to the proceedings heretofore had in connection with said plan, all of which documents are on file in the offices of this Commission, for a full statement of the transactions proposed to be taken, which may be summarized as follows:

Prior to the issuance of the new funded debt, it is stated that the declaration of trust of New England Power Association will have been amended, the name of the company will have been changed to New England Electric System, and NEES will have acquired the assets and assumed the liabilities (other than funded debt to be simultaneously discharged) of the other applicants named in the above-mentioned order of the Commission, all on the terms and conditions set forth in the plan and the above-mentioned order of the District Court. The new funded debt will be the only funded debt of NEES then to be outstanding.

The new funded debt of NEES will consist of $10,000,000 principal amount of loans from financial institutions, to be represented by 10-year serial promissory notes maturing at the rate of $1,000,000 per annum, $25,000,000 the principal amount of ____% Debentures due 1967 and $50,000,000 principal amount of ____% Debentures due 1977. The promissory notes are to be sold privately, and the names of the lending financial institutions and the interest rate on the notes will be supplied by amendment. The debentures will be sold at competitive bidding pursuant to the terms of Rule U-50 and the interest rates thereon, and the prices to be paid to NEES will be determined by such competitive bidding. The name of the trustee under the indenture securing the debentures will be supplied by amendment.

The declaration states that no fees, commissions or other remuneration will be paid in connection with the proposed loans from financial institutions, except attorney's fees and the compensation of Merrill, Lynch, Pierce, Fenner & Bean, who are acting as general financial advisers in connection with the entire refunding program. Estimated expenses in connection with the issuance of the debentures will be supplied by amendment.

The declaration designates sections 6 (a) 7 and 11 of the Public Utility Holding Company Act of 1935 as applicable to the issuance of both the promissory notes and the debentures, and states that no State commission has jurisdiction over the proposed transactions.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to the matters set forth in said declaration and that said declaration shall not become effective except pursuant to further order of this Commission:

It is ordered, Pursuant to sections 6 (a), 7, 11 and 18 of said act that a hearing on said declaration be held on May 13, 1947 at 10 a. m., e. d. s. t. at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, and that for such purpose the hearings herein be reconvened. On such date the hearing room clerk in Room 318 will advise as to the room in which such hearing will be held.

It is further ordered, That William W Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at such reconvened hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division of the Commission having advised the Commission that it has made a preliminary examination of the declaration and that, upon the basis thereof, the following matters and questions are presented for consideration by the Commission, without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the issue and sale of said notes and debentures are in conformity with said plan, the Commission's findings, opinion, and order of March 14, 1946, and the District Court's order of June 18, 1946.

2. Whether the fees, commissions or other remuneration, to whomsoever paid, directly or indirectly, in connection with the issue, sale and distribution of said securities are reasonable.

3. Whether the terms and conditions of the issue or sale of said securities are detrimental to the public interest or the interest of investors or consumers.

4. Whether the terms of the indenture securing said debentures are adequate for the protection of investors.

5. Whether the proposed accounting treatment of the proposed transactions is proper and in conformity with sound accounting principles.

6. What terms and conditions, if any, with respect to the proposed transactions should be prescribed in the public interest or for the protection of investors and consumers or to insure compliance with the requirements of the Public Utility Holding Company Act of 1935, or any rules or regulations promulgated thereunder.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That any person desiring to be heard in connection with this proceeding, or proposing to intervene herein and who has not already entered his appearance herein, shall file with the Secretary of the Commission on or before May 12, 1947, his request or application therefor as provided by Rule XVII of the rules of practice of the Commission.

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing a copy of this order by registered mail to applicants herein and to all other persons who have heretofore entered their appearances herein and that further notice be given to all persons by publication of this order in the FEDREAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-4160; Filed, May 1, 1947; 8:46 a. m.]

[File No. 54-153]

CITIES SERVICE CO.

ORDER APPROVING PLAN

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 24th day of April 1947.

Cities Service Company ("Cities") a registered holding company, having filed a plan pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 for the simplification of its corporate structure; and

The Commission having issued its notice of filing and order for hearing on said plan, appropriate notice having been given to all interested persons, and public hearings having been held, at which hearings all interested persons were afforded an opportunity to be heard; and

Cities having amended said plan prior to the close of said hearings and notice of the filing thereof and opportunity for hearing thereon having been given to all interested parties; and

Cities having requested the Commission (1) to find that the plan is necessary to effectuate the provisions of section 11 (b) of the act and is fair and equitable to the persons affected thereby, and to make an order approving the plan and containing appropriate recitals conforming to the requirements of section 1808 (f) and Supplement R of the Internal Revenue Code, as amended, and (2) to apply to an appropriate court, as provided by section 11 (e) of the act, to enforce and carry out the terms and provisions of the plan; and

The Commission having considered the record and having this day made and entered its findings and opinion herein, and having found the plan necessary to effectuate the provisions of section 11 (b) of the act and fair and equitable to the persons affected thereby and deeming it appropriate to grant the request of Cities that the Commission make application to an appropriate court to enforce and carry out the terms and provisions of the plan:

It is ordered, Pursuant to section 11 (e) and the other applicable provisions

of the act and the rules and regulations thereunder, that the plan and the steps and transactions involved in the consummation thereof are necessary to effectuate the provisions of section 11 (b) of the act and fair and equitable to the persons affected thereby, and hereby are approved, and the applications and declarations comprised therein are hereby granted and permitted to become effective, subject to reservations of jurisdiction with respect to the reasonableness and appropriate allocation of all fees and expenses and other remunerations incurred and to be incurred in connection with the plan and the consummation thereof, and to entertain such further proceedings, to make such supplemental findings, and to take such further action as may be necessary in connection with the plan, the transactions incident thereto, and the consummation thereof, and subject further, to the terms and conditions prescribed in Rule U-24.

It is further ordered, That this order shall not be operative to authorize the consummation of any of the transactions proposed in the plan until an appropriate United States District Court shall, upon application thereto, enter an order enforcing such plan.

The Commission deeming it appropriate to grant the request of Cities regarding the inclusion in this order of appropriate recitals and specifications conforming to the applicable provisions of the Internal Revenue Code, as amended:

It is further ordered and recited, That the steps and transactions itemized below involved in the consummation of the plan are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and are necessary and appropriate to effectuate the integration or simplification of the holding company system, of which Cities Service Company is a member, and hereby authorized and approved:

(1) The issuance by Cities of its 3% Sinking Fund Debentures due 1977 in an aggregate principal amount not to exceed $115,246,950 and its Interim Certificates (representing interests of less than $100 in such Debentures) and the exchange by Cities with the holders of its Preferred Stock, Preference BB Stock, and Preference B Stock, of said Debentures, Interim Certificates and cash, as hereinafter specified, for the 560,600 outstanding shares of its Preferred Stock, the 17,700 outstanding shares of its Preference BB Stock and 86,000 outstanding shares of its Preference B Stock, and all rights appertaining thereto including all dividend arrears thereon, on the basis of $196.50 principal amount of Debentures for each share of Preferred Stock, $193.50 principal amount of Debentures for each share of Preference BB Stock, and $19.35 principal amount of Debentures for each share of Preference B Stock; Interim Certificates to be issued in denominations of $10 or multiples thereof for amounts less than $100 and amounts of less than $10 to be paid in cash, and any such holder to receive cash only to the extent that the entire amount to which he is entitled cannot be satisfied in Debentures and Interim Certificates;

(2) The exchange by Cities prior to January 1, 1950 with the holders of said Interim Certificates, of 3% Sinking Fund Debentures due 1977 for Interim Certificates when combined in amounts aggregating $100 or multiples thereof;

(3) The sale or purchase by Cities prior to January 1, 1950 of Interim Certificates as provided in the plan;

(4) The sale by Cities after January 1, 1950 of the 3% Sinking Fund Debentures due 1977 theretofore issuable to holders of shares of Preferred Stock, Preference BB Stock and Preference B Stock, not theretofore exchanged for such Debentures and the distribution to such holders of their pro rata share of such proceeds, plus such other cash, if any, as they may be entitled to upon surrender of their certificates prior to January 1, 1953, after which date any of such moneys not theretofore collected by such holders will revert to Cities; and

(5) The sale by Cities after January 1, 1950 of the 3% Sinking Fund Debentures due 1977 for which Interim Certificates then outstanding are exchangeable and the distribution to the holders thereof of their pro rata share of such proceeds upon the surrender of their Interim Certificates prior to January 1, 1953, after which date any of such moneys not theretofore collected by such holders will revert to Cities.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-4161; Filed, May 1, 1947; 8:46 a. m.]